

South Africa

Banks Act, 1990

Regulations relating to Representative Offices, 2001

Government Notice R1370 of 2001

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Regulations relating to Representative Offices, 2001

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Commenced on 1 January 2002

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The Minister of Finance has under section [90](#) of the Banks Act, 1990 ([Act No. 94 of 1990](#)), made the regulations contained in the Schedule.

1. Definitions

In these Regulations,

"**the Act**" means the Banks Act, 1990 ([Act No. 94 of 1990](#)), and any word or expression to which a meaning has been assigned in the Act or the Regulations relating to Banks shall bear the meaning so assigned thereto and, unless the context otherwise indicates;

"**chief representative officer**", in relation to a representative office, means a natural person as envisaged in section [34\(2\)](#) of the Act;

"**representative office**" means a representative office as defined in paragraph [\(a\)](#) of the definition of a "representative office" in section [1\(1\)](#) of the Act.

2. Operational information

- (1) A representative office shall, for purposes of enabling the Registrar to perform his/her function under the Act, within twenty business days immediately following the last day of the reporting period to which the required information relates, furnish the Registrar with information in the format of the form RO 001, prescribed in ANNEXURE A to these Regulations.
- (2) The information required to be reported shall be reflected against the appropriate items, and in the columns, specified in form RO 001.
- (3) Except where otherwise Indicated, form RO 001 shall be completed in US dollars.
- (4) The chief representative officer of the representative office shall sign and certify form RO 002, prescribed in ANNEXURE B to these Regulations, in respect of each form RO 001 return rendered in terms of these Regulations, whether such return is rendered on a prescribed form or by means of an electronic facility; Provided that, in the event of the chief representative officer of the representative office not being available to sign the completed form RO 002, the officer performing the functions of the chief representative officer shall sign the said form in an acting capacity and not on behalf of the absent officer, and the normal office of the officer so acting shall be clearly indicated on form RO 002.
- (5) The furnishing of the returns prescribed in these Regulations, whether by way of the completion of the prescribed form or by electronic means, shall be done at the intervals prescribed in these Regulations, and such returns shall be forwarded to the Registrar at P O Box 8432, Pretoria, 0001. Additional facilities are provided by the Office for Banks for the electronic rendition of the information required to be contained in the prescribed return, and further details can be obtained from that Office.

3. Management

A representative office shall—

- (a) not later than seven days immediately following the date of the expiration of the term of office of its chief representative officer inform the Registrar in writing of such expiration;
- (b) at least thirty days prior to the appointment of a new chief representative officer furnish the Registrar with information pertaining to the person designated for such appointment in the format of form RO 003, prescribed in ANNEXURE C to these Regulations; and
- (c) at least thirty days prior to the appointment of a new chief representative officer submit a statement and declaration in the format of form RO 004, prescribed in ANNEXURE D to these Regulations, duly completed by—
 - (i) the chairperson of the board of directors of the foreign institution in question; or
 - (ii) an authorised executive officer of the foreign institution in question,to the Registrar in respect of each form RO 003 presented to the Registrar that relates to the proposed appointment of a chief representative officer to such institution's representative office.

4. Material changes

A representative office shall inform the Registrar in writing, within seven days of the occurrence thereof, of—

- (a) any material restriction on or amendment to the authorisation to conduct business similar to the business of a bank granted to the foreign institution of which it is a representative office;
- (b) the withdrawal of the authorisation to conduct business similar to the business of a bank granted to the foreign institution of which it is a representative office; and
- (c) any change in the legal status of the foreign institution of which it is a representative office.

5. Financial statements

A representative office shall submit to the Registrar, on an annual basis, not later than six months after the end of the financial year of the foreign institution of which it is a representative office, a copy of that foreign institution's latest annual financial statements.

6. Failure or inability to comply with the provisions of these Regulations

- (1) A representative office that fails or is unable to comply with a provision of these Regulations shall report its failure or inability to comply in writing to the Registrar, stating the reasons for such failure or inability to comply.
- (2) The Registrar may summarily take action under the Act or these Regulations against a representative office referred to in subregulation (1) or, if in the circumstances, the Registrar deems it fit to do so, condone the failure or inability and afford the representative office concerned an opportunity, subject to such conditions as the Registrar may determine, to comply with the relevant provision within a specified period.

7. Commencement

These Regulations shall be called the Regulations relating to Representative Offices and shall come into operation on 1 January 2002.

Annexures A - D

Forms

[Editorial note: The forms have not been reproduced.]