FINANCIAL SERVICES REGULATORY AUTHORITY
SAINT LUCIA

SAINT LUCIA DEVELOPMENT BANK ACT

GUIDANCE NOTES

Prepared by
Financial Services Regulatory Authority
May 23, 2016

PREAMBLE

The Financial Services Regulatory Authority is empowered, under Section 15 of the Financial Services Regulatory Authority Act, No. 13 of 2011 (FSRA Act), to issue guidelines to regulated entities.

The powers/duties of the Authority are, *inter alia,* set out in Section 13 of the FSRA Act.

This publication has been prepared by the Financial Services Regulatory Authority

(FSRA/ the Authority), Saint Lucia, to provide the Saint Lucia Development Bank (SLDB/Bank) with guidance into the level of detail with which they are required to comply in the conduct of their business in the area of Banking in St. Lucia. It is intended to cover some of the principal issues contained in the Saint Lucia Development Bank Act, No. 12 of 2008 (SLDB Act) and to give the Bank, their clients and the Bank's auditors an understanding of the minimum expectations of the FSRA.

For all legal purposes the reader should refer to the official texts of the Statutes and Section 48 of the SLDB Act which states **"Unless otherwise expressly stated in this Act, the provisions of the Financial Services Regulatory Authority Act apply to the Bank."**

Further inquiries may be addressed to the office of the Financial Services Regulatory Authority, 6th Floor Francis Compton Building, Waterfront, Castries, St. Lucia. Tel: 1(758) 468 2990, Fax: 1 (758) 451 7655.

A. THE MONITORING PROCESS

SLDB will be monitored and regulated through:

a. The provision of semi-annual returns (Management Accounts);
b. Undergoing the annual statutory audit;
c. Management Letter;
d. On-site inspection by the staff of the FSRA
e. The notification (to the FSRA) of changes in material particulars;
f. The maintenance of proper books and records in St. Lucia.

1. Management Accounts

SLDB is required to file semi-annual Management Accounts with the Authority within two (2) months of the end of a six month period, along with a written declaration certifying, to the best of knowledge and in all reasonableness, that the management accounts represent a true and fair view of the financial position of the Bank.

2. The Annual Statutory Audit

SLDB is required to submit a copy of its audited accounts and annual report to the Authority. For the avoidance of doubt the auditor should:

(a) Include in the Notes to the Audited Financial Statements, that SLDB has met the required adequacy ratios namely:

1. Total Equity/Total Assets should be a minimum of 8%.

2. The ratio of Total Loans/Total Assets does not exceed 90% at any given time.

(b) Include commentary in the Notes to the Audited Financial Statements on the Bank's compliance in respect of Section 28 of the SLDB Act which states **"the aggregate of the liabilities of the Bank outstanding at any one time including bonds and debentures issued by the Bank, shall not at any time exceed seven times the amount of its paid up share capital and free reserves"**.

(c) Where applicable, include in the Notes to the Audited Financial Statements a note on the Bank's compliance in respect of Section 29 of the SLDB Act which states **"the Bank has established and maintain a reserve fund to which shall be allocated at the end of each financial year of the Bank not less than twenty-five percent of the Net Income of the Bank for that financial year whenever the total amount standing to the credit of such reserves funds is less than the paid up capital of the Bank".**

The audited accounts are required to be submitted within three (3) months of the end of the Bank's financial year end.

3. Management Letter

The Bank is required to submit its Management Letter, issued by its Auditor within four months of the end of a financial year.

4. Notification of Changes

The Bank should inform the Authority of changes in material particulars and the **reasons** pertaining thereto in the case of each of the following:

(a) where there has been a change in the Managing Director and Senior Officers of the Bank;
(b) where there is proposed to be a change in the shareholders of the licensee;
(c) where there has been a change in any of the licensee's professional advisers;
(d) where there is proposed to be a change in the Bank's business address;
(e) Where the Bank proposes to open a sub-office within or outside Saint Lucia

5. Other Operational Requirements

5.1 Compliance Officer

The Bank should appoint a Compliance Officer at management level in keeping with Section 16 (1) (n) of the Money Laundering (Prevention) Act, No. 8 of 2010.

5.2 Credit/Loan Report

a) Management of the Bank shall submit a credit/loan report to the Board on a monthly basis stating at a minimum-

(i) the number of loan applications received,
(ii) the number and category of loans granted,
(iii) the security obtained for the loans granted,
(iv) applications denied,

b) Management of the Bank shall submit a delinquency report to the Board on a quarterly basis stating at a minimum-

(i) Number of delinquent loans
(ii) Aging of delinquent loans per sector
(iii) Provisions for delinquent loans

5.3 Internal Auditor

The Bank may have an Internal Auditor as part of strengthening of the audit function of the Bank.

5.3.1 Duties of Internal Auditor

The Internal Auditor shall –

a) appraise the policies and operating procedures of the Bank and make recommendations to the Board;
b) attest to the semi-annual Management accounts are filed in compliance with items A 1 of these Guidelines;
c) determine periodically but not less than once per semi-annum, whether the provisions of the SLDB Act, Guidelines and the relevant policies have been complied with—
   i. in making loans, including loans to officials, business loans and loans to organisations, associations and corporations,
   ii. in the administration of depositors' accounts,
   iii. in the maintenance of the minutes of meetings of the Board and other Committees.

d) receive and investigate any complaints made by depositors of the Bank about management of the Bank;
e) monitor the management of the Bank;
f) ensure that the Bank complies with the provisions of the SLDB Act, and Guidelines; and
g) verify the assets of the Bank and monitor whether the assets are properly protected.

5.4 Financial Statements of Subsidiaries

The Bank shall submit a copy of the financial statements of all its subsidiaries to the FSRA within four (4) months of their financial year end or within such extended period not exceeding 2 months as the Authority may allow.

6. Books and Records

The Bank is expected to maintain permanently at its principal office in St. Lucia such books of accounts and records of its business and financial affairs as will: -

(a) show adequately the nature and extent of the business carried on by that Bank in St. Lucia; and

(b) enable the Authority, at any time as provided in law to conduct a proper examination of the Bank's affairs, to ascertain with reasonable accuracy its financial position, and to verify that it is then in compliance with the law and these Guidelines.

6.1 **Books to be Kept.**

The books and records are to be kept by the Bank at its principal office in St. Lucia, which at a minimum should include:

(a) financial statements for the current year and the preceding three years for its banking business as carried on in St. Lucia.

(b) a detailed financial record of the Bank's operations;

(c) a register of the Bank's directors, officers and managers, showing their names and addresses;

(d) minutes of all the Bank's shareholders meetings, meetings of its board of directors, and meetings of committees of its Board of directors.

(e) general and subsidiary ledgers and general journals;

(f) an up-to-date list of all the Bank's service providers; and

(g) any other register or record as may be specifically required in writing by the Authority from time to time.

APPENDIX 1

LOAN CLASSIFICATION CRITERIA

PROVISIONING & OTHER RELATED GUIDELINES

Outlined below are guidelines for the review of the loan portfolio, the classification of loans, loan loss provisioning, loan renegotiating, the suspension of interest on past due loans and write off procedures, for use in St. Lucia.

A. Loan Portfolio Review

Development Banks operating in St. Lucia are required to conduct annual reviews of their loan portfolios. All large credits are to be reviewed, including large off-balance sheet credit commitments. All past due loans, non-performing loans and other loans identified as problem loans are also to be reviewed. A sample of the remaining portfolio should also be selected for review. The loan portfolio review should cover at least 70 per cent of the total amount of loans and advances outstanding. The information reviewed would include:-

(a) The original amount of the loan/advance, the terms, the interest rate, the current balance and status and the purpose of the loan/advance.

(b) The business of the borrower, balance sheets, cash flows and other financial data both on the business and the guarantors.

(c) An evaluation of the project financed.

(d) The security taken, including up to date appraisals, legal assignments, insurances etc.

(e) Track record of the borrower including the servicing of previous borrowings.

(f) If part of a group, the performance of loans/advances to other members of the group.

Following the annual review of the portfolio the loans/advances should be classified by the financial institution, based on the criteria detailed below and the required provision made. Loan classifications, following inspections by the FSRA, would be based on similar criteria.

B. Loan Classifications

Five classification categories are recommended for loans/advances, following the review of the loan portfolio. These are **Pass, Special Mention (Potential Problem Credits), Substandard, Doubtful and Loss**. The criteria for each classification are as follows:-

I. Pass - All of the following:-

(a) The financial condition of the borrower is sound.

(b) There is adequate credit documentation to support borrowings e.g. current financial statements, cash flows, credit checks.

(c) The collateral taken for the loan is unimpaired and represents tangible security to cover the financial institution's exposure.

This classification would therefore be assigned to:-

(i) Up to date loans (both principal and interest) which are fully secured by cash or government securities.

(ii) Loans with repayments in arrears of up to 1 month.

(iii) Unsecured credits which are up to date.

(iv) Overdrafts operating within the approved limits and showing good fluctuations.

II. Special Mention (Potential Problem Credits) - Any one or more of the following:-

(a) The credit is currently up to date but evidence suggests that certain factors could in the future affect the borrower's ability to service the loan properly or impair the collateral.

(b) There is inadequate credit documentation to support borrowings or other deviations from prudent lending practices exist.

(c) Collateral to be taken not fully in place.

(d) Loans which could deteriorate because of market conditions affecting the sector.

(e) Renegotiated loans which are up to date and adequately secured for a minimum of 1 year after rescheduling and during which period there would have been no inherent credit weaknesses.

(f) Loans with repayments in arrears, for 1-3 months and/or non compliance with other terms of the loan.

(g) Overdrafts which exceed the approved limits for short periods without the prior approval of the financial institution.

III. Substandard - Any one or more of the following:-

(a) There are well-defined credit weaknesses e.g. borrower's cash flow insufficient to service the debt as arranged, several renewals with capitalization of interest.

(b) The primary source of repayment insufficient to service the debt and the financial institution will have to look at secondary sources, such as collateral or refinancing, for repayment.

(c) The adequately secured portions of loans and advances which would otherwise have been classified doubtful.

(d) Loans with repayments in arrears for at least 3 months.

(e) Non-performing loans for which both principal and accumulated interest is fully secured by cash or Government securities/guarantees.

(f) Adequately secured * overdrafts, which are continuously in excess of the approved limits or with hardcores and fluctuations which do not conform to the business cycle.

*** adequately secured means that the security is sufficient to protect the financial institution from loss of principal and interest following disposal under a forced liquidation program.**

IV. Doubtful - All the weaknesses of substandard plus any one or more of

(a) Collection of the debt in full is highly questionable or improbable.

(b) There is the possibility of a loss, but some factors exist which could improve the situation.

(c) The unsecured portion of loans 6 months or more in arrears.

(d) The unsecured portion of overdrafts continuously in excess of their limits, and with minimum activity in the accounts.

V. Loss - Any one or more of the following:-

(a) Loans considered uncollectible.

(b) The unsecured portion of loans 12 months or more in arrears.

(c) Loans which may have some recovery value but it is not considered practical nor desirable to defer write off.

C. Provisioning Guidelines

In order to determine an adequate level of provision to be made by financial institutions for anticipated losses on loans, a minimum provision should be assigned to each of the loan classification categories above, following the annual review of the loan portfolio. The following minimum levels of provisions are proposed for use in St. Lucia:-

Classification	Level of Provision
Pass	0%
Special Mention	0%
Substandard (loans and advances fully secured	

by cash or government securities/guarantees*)	0%

***This category would include non-performing loans to government entities which are fully guaranteed (principal and interest) by the Government (Letters of Comfort not included).**

Classification	**Level of Provision**
Substandard residential mortgage loans up to a maximum of six months past due	0%
Substandard (Other)	10%
Doubtful	50%
Loss	100%

It is also recommended that the SLDB be required to make a provision of at least 1% for the balance of the loan portfolio (not reviewed during the past 12 months).

SLDB should also be advised that they could be required to make larger provisions for loan losses, if this are considered warranted by the FSRA. Factors which could influence the FSRA, include its own review of the financial institution's loan portfolio, economic trends, changes in lending practices, the loss experience of the particular institution and the quality of its management.

D. Renegotiated Loans

Renegotiated loans and advances are credits which have been refinanced, rescheduled, rolled over or otherwise modified because of weaknesses in the borrower's financial position and/or the non repayment of the debt as arranged. Loans should only be renegotiated under the following conditions:-

(a) the existing financial position of the borrower can service the debt under the new conditions.

(b) loans classified doubtful or loss should not be renegotiated unless an up front cash payment is made or there is an improvement in the security taken.

(c) loans should not be renegotiated more than twice over the life of the original loan and mortgage and personal loans not more than twice in a five year period.

(d) Renegotiated loans should not be reclassified upward for a minimum of 1 year following the new arrangements.

(e) The security for renegotiated loans inclusive of capitalized interest, should cover the full amount of the renegotiated loan.

E. Suspension of Interest

Interest should not be accrued on loans classified as non-performing (i.e. where principal and interest have not been paid for ninety days or more, except in the case of residential mortgage loans where the period shall be extended to one hundred and eighty days) unless such loans are adequately secured and full collection is expected within three months. Neither should interest be accrued on overdrafts when the approved limit has been reached and/or when credits to the account are insufficient to cover interest accruals for at least a three month period.

Interest on loans to Government and loans guaranteed by Government, would continue to accrue up to the limit of the guarantee.

A non accrual loan may be restored to accrual status when all arrears of principal and interest have been paid or when it otherwise becomes well secured and in the process of collection. In the case of overdrafts, accrual status is restored when the account is operating within the limit and all interest arrears have been cleared or when it otherwise becomes well secured and in the process of collection.

Accrued, uncollected interest should be reflected in an "interest in suspense" account on the balance sheet.

F. Write-Off Procedures

Loans must be written off to a memorandum account, three months after being classified as a loss.

Management Accounts are to be submitted to:

The Executive Director
Financial Services Regulatory Authority
6th Floor, Francis Compton Building
Waterfront
Castries.
Tel: 468 2990