

The Republic of the Union of Myanmar

Central Bank of Myanmar

Directive No. (3/2019)

4th Waning of Pyatho 1380 ME

24 January, 2019

In exercise of the powers conferred under Section 34 on maintenance of capital funds and Section 184 of the Financial Institutions Law (FI Law), the Central Bank of Myanmar (CBM) hereby issues the following Directive.

Title and Application

1. This Directive shall be called the Subordinated Debt Directive.
2. This Directive applies to all banks.

Definitions

3. For the purpose of this Directive-
 - (a) Definitions of “Regulatory Capital” and “Capital Adequacy Ratio” shall be as set out in the FI Law, and Capital Adequacy Regulation for Banks issued by the CBM on 7th July 2017 (Notification No. 16/2017).
 - (b) “Supplementary Capital or Tier 2 Capital” is defined as set out in Section 34, sub-section (g)(2) of the FI Law.
 - (c) “Related Parties” is defined as set out in Section 2(ii) of FI Law.

Supplementary Capital or Tier 2 Capital

4.
 - (a) The Capital Adequacy Regulation allows the inclusion of supplementary capital or Tier 2 capital subject to prior approval of the CBM.
 - (b) A bank may include subordinated debts in the supplementary capital or Tier 2 capital up to a maximum 50% of Tier 1 capital provided the subordinated debt meets the eligibility criteria in this Directive.

Approval from Central Bank of Myanmar

5. A bank shall seek the prior approval of the CBM for inclusion of subordinated debt in its supplementary capital or Tier 2 capital.
6.
 - (a) The CBM may require a bank to exclude all or part of a bank’s subordinated debt from its supplementary capital or Tier 2 capital, if the subordinated debt does not or will not meet the requirements of this Directive.
 - (b) A bank must issue the subordinated debt within one year of the approval by the CBM.

Information to be submitted to Central Bank of Myanmar

7. A bank must provide the following information to the CBM to seek its approval for the issuance of subordinated debt and inclusion of subordinated debt in its calculation of supplementary capital or Tier 2 capital:
 - (a) Description of the terms of the issuance of the debt.
 - (b) The date of the funds for the debt were or will be received and the amount.
 - (c) A copy of the final debt note and agreement.
 - (d) A statement of whether the debt was issued to another bank.

- (e) A statement that the issuance complies with all relevant laws, regulations, and this Directive.
- (f) Such other information as the CBM may require.

Eligible Subordinated Debt

8. All subordinated debt must meet the following criteria:
- (a) the debt has been issued and fully paid up;
 - (b) the debt is not issued directly or indirectly to the general public;
 - (c) the debt is subordinate to depositors and to the general creditors of the bank by claim;
 - (d) the debt is neither secured nor covered by a guarantee of the bank or related party of the bank or other arrangement that enhances the seniority of the claim relative to depositors and the general creditors of the bank;
 - (e) the debt has a minimum original maturity of at least five years, with no features (such as increases in interest rates after a certain period) that creates an incentive for the bank to redeem or repay the subordinated debt early;
 - (f) the debt is not redeemable or repayable earlier than the original maturity date of at least five years from the date of issue unless approved by the CBM;
 - (g) the debt is not redeemable or repayable earlier than the original maturity date of at least five years from the date of issue at the initiative of the investor or lender, except in liquidation; and
 - (h) the debt is not owned or funded, directly or indirectly, by the bank or a related party.
 - (i) the debt meets the requirements of applicable laws and regulations.

Banks' holdings of Subordinated Debt issued by other banks

9. (a) Bank which invests in subordinated debt issued by other banks or which extend subordinated loans to other banks must deduct such investments and loans from their capital calculations as required by the Capital Adequacy Regulation.
- (b) Bank must treat investments and loans as "Deducted Equity Investments", item 4 of the Capital Adequacy Form of the Capital Adequacy Regulation.

Amortization of Subordinated Debt

10. The amount of any subordinated debt included in the calculation of supplementary capital or Tier 2 capital is subject to straight-line amortization in the final five years prior to its maturity or scheduled redemption and the straight-line amortization must be carried out according to the following schedule:

Years to Maturity	Amount eligible to be included in Supplementary Capital
5 years or more	100%
4 years or more and less than 5 years	80%
3 years or more and less than 4 years	60%
2 years or more and less than 3 years	40%
1 year or more and less than 2 years	20%
Less than 1 year	0%

Early Repayment or Redemption

11. (a) Where a bank seeks prior approval for early redemption or repayment of subordinated debt under paragraph 8(f) of this Directive, the CBM may grant the approval provided:
- (i) the bank will replace the existing debt, at the same time or prior to the repayment, with new debt of the same or better quality on terms which will enable the bank to service the new debt and make dividend payments taking into account its income-generating capacity;

- (ii) the bank must demonstrate that its capital adequacy ratio calculated in accordance with the Regulation on Capital Adequacy will be improved after repayment.
- (b) The bank must notify the CBM of the completion of transaction for the prepayment of the subordinated debt within 10 days of its completion.

Duties of Board of Directors

12. The Board of Directors shall ensure that the bank complies with this Directive under Section 74 of FI Law.

Non-Compliance of the Directive

13. Failure to comply with this Directive constitutes a violation and is subject to administrative penalties under Section 154 and such other sanctions as may be imposed under the Financial Institutions Law.

Effectiveness

14. This Directive shall come into effect immediately.

Sd./xxxxxxxxx
(Soe Thein)
Deputy Governor
Central Bank of Myanmar