Table of Contents

		Page
Introduction		5
Sections		
1.0	Authority, Purpose and Scope	5
2.0	Licensing of Foreign Exchange Bureau	6
3.0	Application for License	8
4.0	Granting a License	10
5.0	Operations of a Foreign Exchange Bureau	11
6.0	Minimum Terms of a License	13
7.0	Annual Renewal License Fee	18
8.0	License not Transferable	18
9.0	Returns and Inspections by the Central Bank of Kenya	19
10.0	Closure/Cancellation of License	21
11.0	Money Laundering	24
12.0	Penalities	28
13.0	Guidelines for Dealing in Telegraphic Transfer and Bank Drafts by Foreign Exchange Bureau	31

Appendices

Appendix 1:	Application for Grant or Renewal of License to Transact Foreign Exchange Business	35
Appendix II:	Director's Fit & Proper Form	39
Appendix III:	Shareholders' Form	50
Appendix IV:	Purchase of Foreign Currency Receipt (Cash)	61
Appendix V:	Sale of Foreign Currency Receipt (Cash)	61
Appendix VI:	Purchase of Foreign Currency Receipt (TCS)	62
Appendix VII:	Sale of Foreign Currency Receipt (TCS)	62
Appendix VIII:	Daily Foreign Exchange inflows from USD10,000 equivalent	63
Appendix IX:	Daily Foreign Exchange outflows from USD10,000 equivalent	64
Appendix X:	Weekly Foreign Exchange Transactions	65
Appendix XI:	Forex Bureau Accounts	66
Appendix XII:	Forex Bureau Returns	67
Appendix XIII:	Suspicious Activities or Transactions Report	71

Forward

Forex Bureaus were established and first licensed in January 1995 to foster competition in the foreign exchange market and to narrow the exchange rate spread in the market. As authorised dealers, forex bureaus conduct business and are regulated under the provisions of the Central Bank of Kenya Act (Cap 491). These guideliness are therefore issued under Section 33K of the Central of Kenya Act .

Between 1998 and 2004, the Forex Bureau market experienced rapid growth, with the number of operating bureaus increasing to 48 by June 1998, and further to 89 in December 2004. Due to the rising demand by potential investors and to provide an orderly and competitive framework it became necessay to streamline the sector by reviewing the Forex Bureau Guidelines.

At the same time, the attention of the Central Bank was drawn to the fact that several Forex Bureaus had been violating various sections of the Forex Bureau Guidelines, including dealing in third party cheques and telegraphic transfers without the approval of the Central Bank. In some instances, it was observed that these services may have been abused as avenues for fraud, tax evasion and money laundering. In response to this concern, the Banking Supervision Department issued Central Bank circular No. 1 of 2005 instructing all Forex Bureaus to cease dealing in telegraphic transfers and third party cheques with immediate effect. Following this action, the Central Bank held discussions with officials from the Kenya Forex Bureau Association and agreed to develop a framework for strengthening the guidelines in general, and the

regulations relating to telegraphic transfers and third party cheques in particular.

The Revised Forex Bureau Guidelines therefore seek to deal with the challenges outlined above, and provide an opportunity for the sector to realign itself in order to enhance competition in the foreign exchange market, and particularly, provide a service to a market segment largely excluded from the mainstream banking sector due to the size and frequency of transactions.

The Revised Forex Bureau Guidelines (2007) supercedes all previous guidelines / circulars issued and is effective January 1, 2007.

FOREIGN EXCHANGE BUREAU GUIDELINES 2006

Introduction

Foreign Exchange Bureaus (Forex Bureaus) were established and first licensed in January 1995 to foster competition and narrow the exchange rate spread in the spot foreign exchange market.

These guidelines are issued by the Central Bank of Kenya with the aim of ensuring that Foreign Exchange Bureaus conduct their business prudently and in compliance with the requirements of the Central Bank of Kenya Act.

Section 1

1.0 Authority, Purpose and Scope

1.1 A foreign exchange bureau is a limited company licensed by the Central Bank of Kenya, as provided under the Central Bank of Kenya Act, and which has as its sole activity the conduct of foreign exchange transactions, including the sale and purchase of currencies, traveller's cheques and similar instruments approved by the Central Bank.

1.2 A foreign exchange bureau is restricted to dealing in spot transactions only. A foreign exchange bureau is not permitted to act as an authorized dealer in gold, engage in lending money, or maintain current accounts on behalf of customers, or establish letters of credit or deal in the forward market.

1.3 These guidelines shall not diminish the rights and obligations of a foreign exchange business operated by commercial banks in Kenya which have been licensed under the Banking Act to operate banking business.

1.4 "Core capital" means permanent shareholders' equity in the form of issued and fully paid-up shares of common stock, plus all disclosed reserves, less goodwill or any other intangible assets.

Section 2

2.0 Licensing of Foreign Exchange Bureau

2.1 A company intending to apply for a license to operate a forex exchange bureau shall incorporate the words "Forex Bureau", "Foreign Exchange Bureau" or "Bureau De Change" in its business name and have spot buying and selling of foreign currency as its main objective.

2.2 A company conducting foreign exchange transactions must hold a foreign exchange license issued by the Central Bank of Kenya.

2.3 The Central Bank of Kenya may issue a foreign exchange bureau license to any company which: -

(a) has lodged a written application, in the Form/CBK/FXD/1 prescribed in Appendix I of the guidelines, with the Central Bank of Kenya;

the duly completed application form must be submitted to the Director, Banking Supervision, Central Bank of Kenya accompanied by the following documents:

- A certified opening statement of affairs
- Memorandum and Articles of Association
- Certificate of Incorporation
- A feasibility study

b) has lodged a non-refundable application fee with the Central Bank of Kenya of Kshs 10,000 or any such amount that may be prescribed by the Central Bank of Kenya from time to time;

(c) has satisfied the Central Bank of Kenya that its owners and directors are fit and proper persons to conduct foreign exchange bureau business.

(d) has a minimum core capital of U.S.$ 30,000 or its equivalent in Kenya shillings before commencement of operations and all times during the course of its operations.

Section 3

3.0 Application for License

3.1 An application for a foreign exchange bureau license shall contain:

(a) Application fee of Kshs. 10,000 (bankers' cheque)as a one-off payment.

(b) the names, residential addresses, nationalities, and specimen signatures of all the shareholders of the company;

(c) fit and proper forms for the directors and shareholders of the company;

(d) the curriculum vitae of the principal officers

(e) a copy of the applicant's certificate of registration as a company, pursuant to the Companies Act;

(f) the name of the proposed foreign exchange bureau, which shall include the words "Forex Bureau" "Foreign Exchange Bureau" or "Bureau De Change";

(g) a clear identification (e.g. registered lease) of the physical location of the proposed foreign exchange bureau.

(h) the postal address of the proposed foreign exchange bureau;

(i) a declaration by the applicant that any director and/or shareholder of the applicant has never been declared bankrupt, nor convicted by any court of competent jurisdiction, in Kenya or elsewhere, of a criminal offence involving fraud, money laundering, tax evasion, or any other act of dishonesty;

(j) a declaration by the applicant that no director and/or shareholder has a similar position or role in any other forex bureau.

(j) an undertaking by the applicant to comply with the provisions of the Central Bank of Kenya Act and instructions issued by the Central Bank of Kenya pursuant to these guidelines or pursuant to any other regulations or guidelines issued by the Central Bank of Kenya.

3.2 There shall be a satisfactory inspection report of the foreign exchange bureau's premises made by the Central Bank of Kenya before the bureau commences business.

3.3 A foreign exchange bureau must present its proposed principal officer and his/her alternate or assistant for interview and registration by the Central Bank of Kenya before they assume office.

Section 4

4.0 Granting a License

4.1 The Central Bank of Kenya shall, within six months of the date of lodging the application, grant a foreign exchange license to the applicant-

(a) Upon receipt of a license fee of Kshs 65,000-, or such amount as may be determined by the Central Bank of Kenya from time to time.

(b) Upon remittance of a non-interest bearing deposit of US$ 30,000 to Central Bank of Kenya US dollar Account to be advised.

(c) The non-interest bearing deposit is subject to forfeiture in case of contravention of the regulation under which the license is issued or failure to pay penalty assessed.

(d) inform the applicant in writing that the application has been declined.

(e) Allow an applicant whose application has been declined to appeal to the Central Bank for review of the decision to decline the application within 30 days from the date of being informed that the application has been declined.

Section 5

5.0 Operations of a Foreign Exchange Bureau

5.1 A foreign exchange bureau shall deal in spot foreign currency transactions involving cash, traveller's cheques, and similar bearer instruments approved by the Central Bank.

5.2 A foreign exchange bureau shall deal spot in any convertible currencies at freely negotiated rates.

5.3 A foreign exchange bureau shall be permitted to set its own business hours which will be approved by the Central Bank of Kenya.

5.4 Each forex bureau shall open a foreign exchange account with an authorized dealer bank, but shall not hold accounts in more than two authorized banks, and inform Banking Supervision Department of Central Bank of Kenya accordingly.

5.5 New products other than those stated in section 5.1 should be introduced in the market after consultation and specific approval of the Central Bank of Kenya.

5.6 A Forex Bureau shall not allow or process transactions that are or appear to have been deliberately split into small amounts of US$10,000 or less to avoid the requirement of documentation.

5.7 A Forex Bureau shall have the necessary equipment to detect counterfeit notes.

5.8 Counterfeit or forged notes presented by customers should be seized, the customer issued with a receipt, and the counterfeit note(s) delivered to the Central Bank of Kenya.

Section 6

6.0 Minimum Terms of a License

6.1 A foreign exchange bureau license shall be granted on the following terms and conditions for the operation of foreign exchange business. A foreign exchange bureau:-

(a) shall not engage in any business operation other than foreign exchange transactions;

(b) shall engage in spot transactions only i.e. the purchase and sale of currencies with immediate delivery against settlement of an agreed price.

(c) shall conduct foreign currency transactions within six (6) months of the date of the issue of the license, beyond this period, if still intending to transact foreign exchange business in Kenya, a bureau should apply for a licence as though the first licence had not been granted.

(d) shall maintain a minimum balance in its foreign currency account(s) of US $2,000, or its equivalent, if the account is not US$ denominated (Euro, Sterling etc) or such amount as may be prescribed by Central Bank of Kenya from time to time, in a commercial bank in Kenya and shall produce proof of the balance of that account(s) to the Central Bank of Kenya on demand;

(e) shall, for every sale or purchase of foreign exchange, issue an accurate receipt in such a form as may be prescribed by the Central Bank of Kenya from time to time, and shall not issue such a receipt for a purpose other than to cover an actual purchase or sale of foreign currency;

(f) shall maintain the following registers to record foreign exchange transactions:

(i) A foreign currency and traveler's cheques purchases register;
(ii) A foreign currency and traveler's cheques sales register;
(iii) A daily summary and balance register;

(g) maintain such books of accounts as to enable the timely preparation of audited annual financial statements;

(h) shall keep all registers up to date, cross-checked, and shall verify their balances daily;

(i) shall submit monthly summaries of its sales and purchases in a form prescribed by the Central Bank of Kenya;

(j) shall produce any registers, books, documents, statements or other information required by the Central Bank of Kenya, and answer any question relating to any transactions during any inspection by the Central Bank of Kenya.

(k) shall not purchase foreign currency in excess or equal to the equivalent of US $10,000, without sighting a valid identification document, issued in Kenya or elsewhere.

Forex Bureaus are required to obtain and keep records of the following identification documents in line with the Know Your Customer (KYC) requirements for all transactions involving telegraphic transfers, bank drafts and personal cheques: -

- Passport
- National Identity Card

Proper scrutiny by Forex Bureaus is required to ascertain that the identification document(s) contains the photograph and signature of the customer, and that it has not been tampered with.

(l) shall not purchase foreign currency in excess, or equal to the equivalent of US $10,000 per customer per day without establishing that the currency emanated from a bona fide and clearly identifiable source;

(m) Shall maintain documentary evidence on the bonafide source, the beneficiary and purpose for all telegraphic transfer transactions.

(n) shall prepare a report, in a form to be prescribed by the Central Bank of Kenya, of any purchase by the bureau of foreign currency or traveller's cheques in excess or equal to the equivalent of $US 10,000 per customer per day;

(o) shall not sell foreign currency or traveller's cheques in excess or equal to the equivalent of US $10,000 per customer per day without sighting a valid identification document, including a Kenya identity card, passport or travel document, and recording the details of the identity document;

(p) shall not sell foreign currency or traveller's cheques in excess or equal to the equivalent of US $10,000 per customer per day without obtaining and

retaining documentary evidence establishing the purpose of the purchase of such currency or traveler's cheques, and without stamping, signing and retaining the documentary evidence in the records of the bureau;

(q) shall not sell foreign currency to non-residents unless the non-resident can prove that the Kenya shillings obtained in Kenya from the sale of foreign currency, or obtained from other lawful activity or from an authorized foreign currency dealer in Kenya, or from a legitimate external source;

(r) shall have the referencing facilities to determine the appropriate rates of exchange;

(s) shall display, in a prominent place, its foreign exchange bureau license, its foreign currency buying and selling rates, and its commission charges (if any).

(t) Shall always advise their customers that all outward remittances shall be made through an authorized dealer bank.

Section 7

7.0 Annual Renewal License Fee

7.1 The Central Bank of Kenya shall set an annual foreign exchange bureau license fee, payable on or before the 31st of December of the calendar year preceding the validity of the license.

7.2 License renewal applications shall be supported with evidence that tax returns have been filed by the bureau.

7.3 Already licensed bureaus which paid a non-interest bearing deposit of US$5,000 will be required to increase their deposit to US$10,000 within one year of issuance of the Revised Forex Bureau Guidelines.

Section 8

8.0 License not Transferable

8.1 A foreign exchange bureau license shall not be transferred, assigned or encumbered in any way.

8.2 A foreign exchange bureau may not relocate its business to another premises without the prior approval of the Central Bank of Kenya.

Section 9

9.0 Returns and Inspections by the Central Bank of Kenya

9.1 The indicative closing Kenya shillings exchange rates must be submitted to the Central Bank of Kenya every morning before 9.00 a.m.

9.2 A foreign exchange bureau is required to submit daily returns of its foreign exchange transactions (inflows and outflows equivalent to or above US$10,000, as specified under appendix VIII and IX.

9.3 A foreign exchange bureau is required to submit weekly returns of its foreign exchange transactions as specified in Appendix X not later than 3.00 p.m. on the first working day each week.

9.4. A foreign exchange bureau is required to submit its quarterly profit and loss account within thirty days after the end of every quarter as specified in Appendix XI.

9.5 A foreign exchange bureau is required to submit its audited balance sheet and profit and loss accounts within three months after the end of the financial year, the financial year for all bureaus shall end on 31st December.

9.6 The Central Bank of Kenya may at any time cause an examination of the foreign exchange bureau's books of accounts or any other records at its premises.

9.7 It is the duty of every officer of the foreign exchange bureau to produce to the officer making an examination, and within a reasonable time, such books of accounts and any other documents in the foreign exchange bureau's custody or power, and furnish such statements or information relating to the affairs of the foreign exchange bureau as may be required by the examining officer.

9.8 For the maintenance of sound management information systems, and in order to facilitate collection of statistical data and information, a foreign exchange bureau should maintain appropriate records. These should provide audit trails for use by internal auditors, external auditors and the Central Bank of Kenya examiners.

9.9 In accordance with the Central Bank of Kenya Act, the Central Bank of Kenya may inspect the registers, books of accounts and other documents of a foreign exchange bureau at any time in order to ensure compliance with the laws of Kenya, with licensing terms and conditions, and with operating instructions and guidelines, and may institute an audit of the bureau, call for an investigation of the bureau, or impose a financial penalty on the bureau.

9.10 The Central Bank of Kenya may suspend the license of a foreign exchange bureau for a period not exceeding 90 days pending the outcome of an investigation by the Central Bank of Kenya of any suspected contravention of the laws of Kenya, the licensing terms and conditions, and operating guidelines.

9.11 Each authorized forex bureau shall engage a firm of External Auditors who shall be members of the Institute of Certified Public Accountants of Kenya and shall be in good standing with the Institute.

Section 10

10.0 Closure / Cancellation of License

10.1 Any foreign exchange bureau shall apply to the Central Bank of Kenya to be permitted to close or suspend business operation temporarily if it is facing some serious difficulties.

10.2 The Central Bank of Kenya may cancel the license of a foreign exchange bureau in cases where: -

(a) without the written consent of the Central Bank of Kenya, the bureau fails to conduct foreign exchange transactions within six (6) months of the date of the issue of the license;

(b) The bureau is found to have ceased to conduct the operations authorized by license;

(c) Owing to the bankruptcy of the director(s), a company is incapable of existing in law or of carrying on its operations or of meeting capital requirements or fulfilling any other guidelines.

(d) The bureau fails to pay the required license fees by the stipulated date;

(e) If the Central Bank of Kenya establishes that the bureau conducts its operations in a manner contrary to the license terms and conditions, including failure to comply with guidelines promulgated by the Central Bank of Kenya and any other laws of Kenya;

(f) The principal officers or other beneficial owners of the bureau, or the bureau itself, is convicted by any court of competent jurisdiction, in Kenya or elsewhere, of an offense related to the use or laundering, in any manner, of illegal proceeds, or is an affiliate or subsidiary of a company that has been so convicted, and such conviction is not overturned on appeal;

(g) the bureau has supplied the Central Bank of Kenya with false or misleading information as part of its application for a license, or during the course of operation.

(h) the bureau has failed to supply timely returns as required under Section 9 of these guidelines.

10.3 Where the Central Bank of Kenya intends to cancel or suspend the license of a foreign exchange bureau, the Central Bank shall immediately inform the bureau of its decision in writing.

10.4 Before cancelling or suspending a licence, the Bank shall give an authorized dealer not less than fourteen days notice in writing and shall consider any respresentations made to it in writing by the authorized dealer within that period.

10.5 Change of ownership - prior approval of the Central Bank of Kenya should be sought for the registration of any transfer of shares.

10.6 Change of names of Directors, Management Team, name of the Forex Bureau, Business Hours, or Location requires prior approval of the Central Bank of Kenya.

Section 11

11.0 Money Laundering

11.1 Money Laundering is the conversion or transfer of money, knowingly or through negligence with the intent of disguising or concealing the true origin of the money. Money laundering enables criminals, especially depositors, tax evaders, terrorists and drug traffickers to conceal or transfer the proceeds of unlawful activities and to finance future illegal or legal activities. Money laundering is a serious

international criminal offence that should be fought vigorously by all civilised people.

11.2 A foreign exchange bureau shall take all necessary measures to ensure that it, or any employee, does not engage in money laundering and that it shall detect, prevent, report or otherwise appropriately deal with incidence of money laundering.

11.3 The board of directors and management of foreign exchange bureaus apply appropriate policies and procedures to detect, prevent, report or otherwise deal with incidences of money laundering, and to train staff to ensure adequate identification of customers and their sources of funds.

11.4 Board of directors of foreign exchange bureaus should do the following: -

a) Formulate and adopt written policies and procedures and train staff to ensure the effective prevention, detection and control possible money laundering activities.

b) Obtain and maintain proper identification of customers wishing to make large foreign exchange transactions.

c) Obtain and maintain adequate records regarding the sources of funds and details of transactions in order to enable the identification of unusual or suspicious transactions.

d) Submit to the relevant authorities including the Central Bank, a report of any suspicious transactions or activities which may indicate money laundering or other attempts to conceal the true identity of customers or ownership of assets.

11.5 Customer Identification

The following types of information shall be the minimum acceptable for determining the true identity of customers wishing to make transactions whether directly or through proxy.

a) Passport or national identity document or certified copy thereof, clearly indicating the nationality and date of birth as evidenced by photograph.

b) Verified employment and/or source(s)of income.

11.6 Legitimacy of Funds and Transactions

The following type of information shall be considered the minimum acceptable for determining the legitimacy of funds and transactions.

a) For large, frequent or unusual cash transactions, a written statement from the customer confirming that the nature of his/her business activities normally and reasonably generate substantial amounts of cash or require substantial amount of foreign currency exchanges.

11.7 Suspicious Activities

The following type of activities or transaction shall be possible money laundering activities:

a) Large, frequent or unusual exchanges of cash, foreign currency or negotiable instruments which is not consistent with or reasonably related to the customer's normal business activities.

b) Reluctance to provide reasonable information and documentation when requested during processing of transactions.

11.8 Confidentiality of Information

Foreign exchange bureaus which obtain or become aware of information which is suspicious or indicates possible money laundering activities shall not disclose such information except to report it to the proper authorities as required.

Section 12

12.0 Penalties

12.1 Where any foreign exchange bureau or other person contravenes any of the provisions of these guidelines:

(a) if it is a body corporate, it shall be guilty of an offense and liable to a fine not exceeding five hundred thousand shillings (Ksh. 500,000); and

(b) every officer of the bureau or person shall be guilty of an offense and liable on conviction to a fine not exceeding five hundred thousand shillings (Ksh.500,000) or imprisonment for a term not exceeding three years or both.

12.2 Specific Violations

The following shall constitute specific violations by a foreign exchange bureau of the directions given by the Central Bank of Kenya, which shall be subject to assessment of monetary penalties under these guidelines: -

a) Failure of the foreign exchange bureau to submit not later than three months after the end of its financial year, to the Central Bank of Kenya its annual audited accounts and a copy of the auditor's report in the prescribed form.

b) Failure of the forex bureau to furnish, as such time and manner as the Central Bank may direct and require, any information in an accurate and complete manner to discharge its functions under the Act.

c) Failure to comply with such guidelines as may be issued by the Central Bank through circulars.

12.3 Monetary penalties on non-compliance with other directions not covered herein above may be levied by the Central Bank of Kenya.

12.4 The Central Bank of Kenya, after reviewing all available information and determining the existence of the contravention or violations of one or more of the provisions referred to herein, shall notify the foreign exchange bureau in writing advising it of the findings and the decision to assess the penalties or give it time to rectify the violation depending on the Central Bank's assessment of the gravity of the violation.

12.5 A notification under 12.4 above shall advise the foreign exchange bureau of a reasonable timeframe within which the violation shall be rectified.

12.6 Following the notification and expiration of the timeframe designated in 12.4 and 12.5 above, or sooner if advised by the foreign exchange bureau of the correction of the violation, the Central Bank shall instruct the foreign exchange bureau, in writing, on the amount of monetary

penalties assessed and the manner in which such monies shall be paid to the Central Bank of Kenya.

12.7 Where the Central Bank of Kenya is not satisfied, either by evidence provided by the foreign exchange bureau or information obtained by the Central Bank of Kenya, that the violation has been rectified as directed, the penalty prescribed in 12.1 (b) above shall apply.

Section 13

13.0 Guidelines for Dealing in Telegraphic Transfer and Bank Drafts by Foreign Exchange Bureaus

13.1. Forex Bureaus will be allowed to deal in telegraphic transfers, bank drafts and third-party cheques on behalf of their customers subject to the following guidelines:

a) **Transaction Limits:**

Forex Bureaus will transact telegraphic transfers and bank drafts in amounts not exceeding an equivalent to US$10,000 per transaction. This limit is designed so as to enable Forex Bureaus to focus their services on segments largely excluded from the mainstream banking sector due to the limited size and frequency of transactions.

A Forex Bureau shall not allow or process transactions that are, or appear to have been deliberately split into several amounts of US$ 10,000 or less to avoid the requirement of documentation.

b) **Transaction procedures:**

Forex Bureaus are required to obtain and maintain the following identification documents in line with Know Your Customer (KYC) requirements for **ALL** transactions involving telegraphic transfers, bank drafts and personal cheques:-

- Passport
- National Identity Card

Proper scrutiny by forex bureaus is required to ascertain that the identification document(s) contains the photograph and signature of the customer, and that it has not been tampered with.

(c) Additionally, forex bureaus shall be required to establish and maintain documentary evidence on the bona-fide source, the beneficiary and purpose for all telegraphic transfer transactions.

13.3 Agents of Western Union / Money-Gram:

Forex Bureaus seeking to be sub-agents of Western Union, Money Gram or any other international money transfer agency are required to: -

i) Seek registration with the Central Bank by forwarding to the Central Bank the signed contract/agreement between the bureau and the agent.

ii) Conduct business in compliance with both the applicable laws and regulations of the Agency and the CBK Guidelines on Foreign Exchange.

13.4 Dealing in personal third-party cheques

(i) Forex Bureaus may buy foreign currency denominated third-party cheques from individual clients. However, bureaus shall purchase third-party cheques subject to a transaction limit, equivalent to US$10,000 and the requisite KYC procedures. Forex Bureaus shall avoid dealing in repeat third-party cheque transactions that appear to be split. However, forex bureaus will bear the risk associated with third-party cheques.

(ii) The commercial bank receiving such cheques must satisfy itself that the forex bureau has adequately conducted its due diligence on the customer encashing the third-party cheque.

13.5 Role of Commercial banks and procedures for transacting telegraphic trasfer on behalf of Forex Bureaus

(i) According to Section 4.19 (b) of the Guidelines on Foreign Exchange Transactions (2002) under the Central Bank of Kenya Act, banks should ensure that appropriate documents are obtained and retained for remittances on behalf of the Forex Bureaus.

(ii) Commercial Banks should ensure that telegraphic transfers on behalf of Forex Bureaus comply with the transaction limit of US$10,000 equivalent per transaction.

(iii) In line with Know Your Customer (KYC) requirements, the commercial bank must satisfy itself that foreign currency transactions involving telegraphic transfers, bank drafts, and personal cheques on behalf of bureaus are supported by appropriate documentation and reported to the Central Bank as required under the Guidelines on Foreign Exchange Transactions.

Appendix I

Application for Grant or Renewal of License to Transact Foreign Exchange Business

The Central Bank of Kenya Act
(Cap. 491)

First Schedule: Legal Notice No. 23 dated 28 February 1996
Form/CBK/FXD/1
(R.2 (1)

(Specified Bank/Foreign Exchange Bureau)

Please use Block (Capitals) Letters

1. Name of bureau……..….

2. Physical and postal address of head office:

   a) City/Town…….....
   b) L.R. No…….....
   c) Street…….....
   d) Building…….....
   e) P.O. Box No..…….....….

3. Date and country of incorporation ……....…...

4. Certificate of incorporation
No……

5. Number of date of issue of previous foreign exchange license…….....

6. Current banking license / foreign exchange bureau license number .....…

7. Name of branch offices and the number of years each has been established and has conducted or carried on business as an authorized dealer:

Branch	**Years**
…….....	……..
……..	……..
……..	……..
…….	…….
……..	……..
……..	……..
……..	……..

8. Particulars of directors:

Name	Nationality	Date of Appointment

9. Particulars of chief foreign exchange operations officers in descending order of seniority:

Name	Designation	Nationality

10. Declaration (by Director / Secretary):

I, the undersigned, hereby declare:

a) THAT the particulars set out herein are true and correct to the best of my knowledge and belief;

b) THAT if licensed, I shall transact foreign exchange business in accordance with the provisions of the Central Bank of Kenya Act and of any regulations guidelines or directive as may from time to time be issued by the Central Bank of Kenya.

Date…….....

Name…….....

Signature…….....…

Note:

1. Please attach copies of -
   a. certificate of incorporation;
   b. valid banking license

2. Please attach:

   a) certified passport size photographs of all the chief foreign exchange operations officers; and

   b) credentials and curricula vitae of all chief foreign exchange operations officers

3. The Bank shall be required to present the chief foreign exchange operations officers for interview and registration by the Bank.

4. Replacement of any chief foreign exchange operations officer registered pursuant to paragraph 3 must be notified to the Bank and any prospective replacement presented to the Bank for interview and registration by the Bank before engagement.

5. All information provided in this form shall be treated as confidential.

Appendix II

Director's Fit & Proper Form
Criteria for determining Professional and Moral suitability of persons in Control of Institution licensed under the Central Bank of Kenya Act.

NB:

(a) Read the declaration on Section 6 below before completing this form.

(b) In case the space provided is inadequate, use additional paper.

1. THE INSTITUTION

Name .....

Type .....

2. PERSONAL INFORMATION

a) Surname .....
Other Names
.....

b) Previous Names (if any) by which you have been Known:.....

c. Year and Place of birth:
.....

d) Nationality and how acquired:
.....

e) Personal Identification Number
.....

f) Identification Card number and date of issue
.....

g) Postal Address:
.....

h) Previous Postal Addresses (if any)
.....

i) Physical Address
.....

j) Educational Qualifications
.....

k) Professional Qualifications and years obtained
.....

l) Name(s) of your bankers during the last 5 years
.....
.....

3. EMPLOYMENT/BUSINESS RECORD

Period	Name of Employer/ Business and Address	Position held & dates	Responsibilities	Reasons for Leaving (where applicable)

4. DESCRIPTION OF YOUR PAST AND CURRENT ACTIVITIES IN KENYA AND ABROAD

4.1 SHAREHOLDING (DIRECTLY OWNED OR THROUGH NOMINESS)

Company' Name	Date of Incorporation	Amount of Shareholding	% of Shareholding	Past Shareholding		Remarks
				A	**B**	

A: Refers to date of closure or surrender of shares

B: Refers to reaons for closure or surrender

4.2 DIRECTORSHIP

Company' Name	Date of Appointment	Executiveor Non-executive	Position held in case of executive	Past Directorships		Remarks
				C	**D**	

C: Refers to date of retirement

D: Refers to reaons for retirement

4.3 PROFESSIONAL BODIES

Name of body	Membership No.	Position Held (if any)	Past Club memberships		Remarks
			E	**F**	

E: Refers to date of retirement

F: Refers to reasons for retirement or resignation

4.4 SOCIAL CLUBS

Club Name	Membership No.	Position held	Past club memberships		Remarks
			A	**B**	

A: Refers to date of closure or surrenderof shares

B: Refers to reasons for closureor surrender

4.5 BORROWINGS

Name of borrower	Name of lending institution	Type of facility	Amount borrowed	Date of offer	Terms of offer	Security offered	Value of security	Current outstanding balance	Remarks

4.6 SOURCES OF FUNDS

Please provide details of the actual source(s) of funds that you, as a shareholder, would like to invest or use in the acquisition of shares in the institution.

a)….....

b)….....

c)….....

5. QUESTIONNAIRE

5.1 Have you or any entity with which you are associated as director, shareholder or manager, ever held or applied for a licence or equivalent authorization to carry on any business activity in any country?

If so, give particulars. If any such application was rejected or withdrawn after it was made or any authorization revoked, give particulars.

…….....

…….....

5.2 Have you at any time been convicted of any criminal offence in any jurisdiction? If so, give particulars of the court in which you were convicted, the offence, the penalty imposed and the date of conviction

…….....

…….....

5.3 Have you, or any entity with which you have been involved, been censured, disciplined, warned as to future conduct, or publicly criticized by any regulatory authority or any professional body in any country? If so, give particulars.

…….....

…….....

5.4 Have you, or has any entity with which you are, or have been associated as a director, shareholder or manager, been the subject of an investigation, in any country, by a government department or agency, professional association or other regulatory body? If so, give particulars.

…….....

…….....

5.5 Have you, in any country, ever been dismissed from any office or employment, been subject to disciplinary proceedings by your employer or barred from entry of any profession or occupation? If so, give particulars.

…….....

…….....

5.6 Have you failed to satisfy debt adjudged due and payable by you on order of court, in any country,or have you made any compromise arrangement with your creditors within the last 10 years? If so, give particulars.

…….....

…….....

5.7 Have you ever been declared bankrupt by a court in any country or has a bankruptcy petition ever been served on you? If so, give particulars.

…….....

…….....

5.8 Have you ever been held liable by a court, in any country, for any fraud or other misconduct? If so, give particulars

…….....

…….....

5.9 Has any entity with which you were associated as a director, shareholder or manager in any country made any compromise or arrangement with its creditors, been wound up or otherwise ceased business either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars.

.....

.....

5.10 Are you presently, or do you, other than in a professional capacity, expect to be engaged in any litigation in any country? If so, give particulars.

.....

.....

5.11 Indicate the names, addresses, telephone numbers and positions of three individuals of good standing who would be able to provide a reference on your personal and professional integrity. The referees must not be related to you, and should have known you for at least five years.

.....

.....

.....

5.12 Is there any additional information which you consider relevant for the consideration of your suitability or otherwise for the position(s) held/to he held? The omission of material facts may represent the provision of misleading information.

.....

.....

N.B. The information given in response to this questionnaire shall be kept confidential by the supervisory authorities, except in cases provided for by law.

6. **DECLARATION**

I am aware that it is an offence to knowingly or recklessly provide any information, which is false or misleading in connection with an application for a banking license. I am also aware that omitting material information intentionally or un intentionally shall be construed to be an offence and may lead to rejection of my application.

I certify that the information given above is complete and accurate to the best of my knowledge, and that there are no other facts relevant to this application of which the supervisory authority should be aware.

I undertake to inform the supervisory authority of any changes material to the applications which arise while the application is under consideration.

NAME .....……..... *POSITION HELD* .....

DATED.....…….... *AT*.....……... *THIS DAY OF*.....…….....

WITNESSED BEFORE ME:

SIGNED.....……..... **(Applicant)**

COMMISSIONER FOR OATHS / MAGISTRATE

Name: .....

Signature .....

Address: .....…….....

Appendix III

SHAREHOLDERS' FORM

CRITERIA FOR DETERMINING THE SUITABILITY OF PERSONS INTENDING TO HOLD OR ACQUIRE STAKE IN AN INSTITUTION LICENSED UNDER THE CENTRAL BANK OF KENYA ACT.

NB: (a) Read the declaration on Section 6 below before completing this form.

(b) In case the space provided is inadequate, use additional paper.

1. **THE INSTITUTION**

Name .....

Type .....

2. **PERSONAL INFORMATION**

a) Surname .....

b) Other Names .....

c) Previous Names (if any) by which you have been known:

.....

d) Year and place of birth

.....

e) Nationality and how acquired:

.....

f) Personal Identification Number

.....

g) Identification Card number and date of issue

.....

h) Passport Number and Date of issue

.....

i) Postal Address:

.....

h) Previous Postal Addresses (if any)

.....

k) Physical Address

.....

l) Educational Qualifications

.....

m) Professional Qualifications (if any)

.....

n) Name(s) of your bankers during the last 5 years

.....

(o) EMPLOYMENT/BUSINESS RECORD

Period	Name of Employer/ Business and address	Position held & Dates	Responsibilities	Reasons for leaving (where applicable)

4. DESCRIPTION OF YOUR PAST AND CURRENT ACTIVITIES IN KENYA AND ABROAD

4.1 SHAREHOLDING (DIRECTLY OWNED OR THROUGH NOMINEES)

Company's Name	Date of incorporation	Amount of Shareholding	% of Shareholding	Past Shareholding		Remarks

A: Refers to date of closure or surrender of shares

B: Refers to reasons for closure or surrender

4.2 DIRECTORSHIP

Company's Name	Date of appointment	Executive or Non-executive	Position held in case of executive	Past Directorships		Remarks
				C	**D**	

C: Refers to date of retirement
D: Refers to reasons for retirement

4.3 PROFESSIONAL BODIES

Name of body	Membership No.	Position Held (if any)	Past Club membership		Remarks
			E	**F**	

E: Refers to date of retirement
F: Refers to reasons for retirement or resignation

4.4 SOCIAL CLUBS

Club Name	Membership No.	Position held	Past club memberships		Remarks
			E	**F**	

E: Refers to date of retirement

F: Refers to reasons for retirement or resignation

4.5 BORROWING

Name of borrower	Name of lending institution	Type of facility	Amount borrowed	Date of offer	Terms of offer	Security offered	Value of security	Current outstanding balance	Remarks

4.6 SOURCES OF FUNDS

Please provide details of the actual source(s) of funds that you, as a shareholder, would like to invest or use in the acquisition of shares in the institution.

a)……

b)……

c)……

5. QUESTIONNAIRE

5.1 Have you or any entity with which you are associated as director, shareholder or manager, ever held or applied for a licence or equivalent authorization to carry on any business activity in any country? If so, give particulars. If any such application was rejected or withdrawn after it was made or any authorization revoked,give particulars.

……

……

5.2 Have you at any time been convicted of any criminal offence in any jurisdiction? If so, give particulars of the court in which you were convicted, the offence, the penalty imposed and the date of conviction

……

……

5.3 Have you, or any entity with which you have been involved, been censured, disciplined, warned as to future conduct, or publicly criticized by any regulatory authority or any professional body in any country? If so, give particulars.

….....

….....

5.4 Have you, or has any entity with which you are, or have been associated as a director, shareholder or manager, been the subject of an investigation, in any country, by a government department or agency, professional association or other regulatory body? If so, give particulars

….....

….....

5.5 Have you, in any country, ever been dismissed from any office or employment, been subject to disciplinary proceedings by your employer or barred from entry of any profession or occupation? If so, give particulars.

….....

….....

5.6 Have you failed to satisfy debt adjudged due and payable by you on order of court, in any country, or have you

made any compromise arrangement with your creditors within the last 10 years? If so, give particulars.

…….....

…….....

5.7 Have you ever been declared bankrupt by a court in any country or has a bankruptcy petition ever been served on you? If so, give particulars.

…….....

…….....

5.8 Have you ever been held liable by a court, in any country, for any fraud or other misconduct? If so, give particulars.

…….....

…….....

5.9 Has any entity with which you were associated as a director, shareholder or manager in any country made any compromise or arrangement with its creditors, been wound up or otherwise ceased business either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars.

…….....

…….....

5.10 Are you presently, or do you, other than in a professional capacity, expect to be engaged in any litigation in any country? If so, give particulars.

….....

….....

5.11 Indicate the names, addresses, telephone numbers and positions of three individuals of good standing who would be able to provide a reference on your personal and financial integrity and honesty. The referees must not be related to you, and should have known you for at least five years.

….....

….....

5.12 Is there any additional information which you consider relevant for the consideration of your suitability or otherwise to own share capital of an institution? The omission of material facts may represent the provision of misleading information.

….....

….....

N.B. The information given in response to this questionnaire shall be kept confidential by the supervisory authorities, except in cases provided for by law.

6. **DECLARATION**

I am aware that it is an offence to knowingly or recklessly provide any information, which is false or misleading in connection with an application for a forex bureau license or approval to own shares in an institution.

I certify that the information given above is complete and accurate to the best of my knowledge, and that there are no other facts relevant to this application of which the supervisory authority should be aware.

I undertake to inform the supervisory authority of any changes material to the applications which arise while the application is under consideration.

NAME: .....

DATED AT:..... *THIS*.....*DAY OF*.....…… 20 …….....…

WITNESSED BEFORE ME:

SIGNED ……..... **(Applicant)**

COMMISSIONER FOR OATHS / MAGISTRATE

Name …….....

Signature: ….....

Address: …….....

Purchase of Foreign Currency Receipt (Cash)

Appendix IV

Name and Stamp of Forex Bureau

Currency	**Amount**	**Rate**	**Kenya**		**FX B2/T**		
			Shilling		**SERIAL NO.**		
			Equivalent		**DATE**		
					Source (tick as appropriate)		
					Bank/Bureau [ ]		
					Export [ ]		
					Tourism [ ]		
					Others (specify)		
					.....		
					Signature		
					Authorised signature of Dealer		
					.....		
Total in Kenya Shillings							

Sale of Foreign Currency Receipt (Cash)

Appendix V

Name and Stamp of Forex Bureau

Currency	**Amount**	**Rate**	**Kenya**		**FX B2/T**		
			Shilling		**SERIAL NO.**		
			Equivalent		**DATE**		
					Purpose (tick as appropriate)		
					Bank/Bureau [ ]		
					Import [ ]		
					Travel [ ]		
					Education [ ]		
					Others (specify)		
					.....		
					Name of Buyer		
					.....		
					Signature		
					Authorised signature of Dealer		
					.....		
Total in Kenya Shillings							

(Non-Cash Instruments)

Purchase of Foreign Currency Receipt (TCS)

Appendix VI

Name and Stamp of Forex Bureau

FOREX BUREAU							
FXB2/TC			**SERIAL**				
NO.					Name of Purchaser		
					.....		
.....					Nationality		
DATE					ID/PP No.		
					Signature		
					Authorised signature of Dealer		
Purchase of Foreign Currency Receipt (Travellers					.....		
Cheques)							
Type of	**Amount**	**Rate**	**Kenya**				
T/Cheque			**Shilling**				
T/cook, visa etc			**Equivalent**				
Total in Kenya Shillings							

Sale of Foreign Currency Receipt (TCS)

Appendix VII

Name and Stamp of Forex Bureau

FOREX BUREAU							
FXB2/TC			**SERIAL**				
NO.					Name of Purchaser		
					.....		
.....					Nationality		
DATE					ID/PP No.		
					Signature		
					Authorised signature of Dealer		
Sale of Foreign Currency Receipt (Travellers					.....		
Cheques)							
Type of	**Amount**	**Rate**	**Kenya**				
T/Cheque			**Shilling**				
T/cook, visa etc			**Equivalent**				
Total in Kenya Shillings							

Daily Forex Exchange Inflows from USD 10,000 Equivalent

Appendix VIII

Name of Bureau ..... Date .....

Number	Customer's Name	Foreign Currency & Amount	Amount inKshs.	Description of Specific sources of Forex Inflows
	Total			

We declare that the foregoing is made from the books of the Bureau and to the best of our knowledge and belief, is correct.

Prepared by: ..... Signature ..... Date .....

Authorised by: ..... Signature ..... Date .....

Daily Forex Exchange Outflows from USD 10,000 Equivalent

Appendix IX

Name of Bureau ..... Date .....

Number	Customer's Name	Foreign Currency & Amount	Amount inKshs.	Description of Specific uses of Forex outflows
	Total			

We declare that the foregoing is made from the books of the Bureau and to the best of our knowledge and belief, is correct.

Prepared by: ..... Signature ..... Date .....

Authorised by: ..... Signature ..... Date .....

Weekly Foreign Exchange Transactions

Appendix X

Name of Bureau ..... Date .....

Week Beginning ..... Ending .....

Currency	Opening Position	Purchaser	Other Inflow	Sales	Other Outflows	Closing Other Outflows

Notes:

1. Opening position means cash in hand/safe and bank
2. Other inflows are shareholders capital, loans, donations etc
3. Other outflows are loan repayments, capital repatriation, payment for expatriate services etc
4. Ensure there is no splitting of transactions to circumvent documentation on transactions above USD 10,000 equivalent.

Authorised signatory: ..... Authorised..... Date .....

Signature ..... Date .....

Forex Bureau Accounts

Appendix XI

Quarter Ending:

Balance Sheet Analysis ..... Profit and Loss Analysis.....

Quarter	Ist	2nd	%	3rd	4th	Quarter	1st	2nd	%	3rd	4th	%
A. ASSETS						B. INCOME						
1. Cash						1. Income on sales						
2. Balance at banks						2. Foreign exc						
						Revaluation (Gain)						
3. Balance at CBK						3. Other Income						
4. Fixed Assets												
5. Other Assets												
6. Total Assets						4. Total						
B. LIABILITIES						**EXPENSES**						
7. Borrowing (Local)						5. Cost of Purchases						
8. Foreign liabilities						6. Foreign Exc,						
						Revaluation (Loss)						
9. Other Liabilities						7. Interest Expenses on						
						borrowings						
						8. Occupancy						
						9. Director's Emoluments						
						10. Salaries & Wages						
						11. Other expenses						
10. Total Liabilities						12. Total						
						13. Profit before tax						
						14. Number of employees						
C. CAPITAL &						**C. PERFORMANCE**						
RESERVES						**INDICATORS**						
11. Paid up Capital						15. Return of Assets						
12. Reserves						16. Return on Share-						
						holders Funds						
13. P &L Account						17. Overheads to						
						Earnings						
D. PERFORMANCE												
INDICATORS												
Surplus/Deficiency												
Capital												

Forex Bureau Returns

Appendix XII

Notes on Completion of Quarterly & Annual Reports

Profit and Loss Analysis

INCOME

1. Sales - Total gross sales

2. Foreign Exchange Revaluation (gain) – Gain arising out of revaluation of foreign currency holdings.

3. Other Income - Any other income e.g.:

   - Commissions
   - Rent Income
   - Interest Receivables etc.

EXPENSES

1. Cost of Purchases - These are the costs incurred in purchasing the various foreign currencies.

2. Foreign Exchange Revaluation (loss) - Loss arising out of valuation of foreign currencies holdings.

3. Financial Expenses - These are expenses incurred in all borrowings from other institutions and should include bank charges e.g.:
   - Bank overdrafts
   - Bank loans

4. Occupancy - All expenses incurred in respect of the following:
   - Rent and Service Charge
   - Cleaning and Maintenance
   - Electricity
   - Security
   - Insurance
   - License

5. Staff costs - Include:
   - Salaries and Wages
   - Medical Expenses
   - Training Expenses

6. Directors emoluments

7. Administrative expenses - These includes:
   - Printing and Stationery
   - Transport
   - Office Expenses
   - Computer Expenses

8. Professional fees - These include:
   - Legal fees
   - Audit Fees etc.

9. Other Expenses - These Include:
   - Marketing expense
   - Advertisement
   - Entertainment
   - Commissions
   - Depreciation etc.

Balance Sheet Analysis

Assets

1. Cash - Cash in hand (both local and foreign)

2. Balances at Commercial Banks

3. Deposit at Central Bank

4. Fixed Assets - These include:
   - Plant and Equipment
   - Land and Buildings etc.
   - Investments (long term)

5. Investments (short term) - Investments in near liquid assets e.g. Treasury bills and bonds etc.

6. Other assets - These includes Debtors and Prepayments etc.

Liabilities

8. Borrowings (local) - These are borrowings from other institutions in Kenya.

9. Foreign Liabilities - Owings in foreign currency

10. Other liabilities - These includes:
    - Creditors
    - Provisions etc

Capital and Reserves

13. Paid up capital - Total issued, allotted and paid - up shares

14. Reserves - These includes:
    - Capital reserves
    - Share premiums
    - Retained earnings

15. P & L Accounts - This is the current profit for the year

Appendix XIII

Suspicious Activities or Transactions Report (SATR)							
Submit to: Director, Banking Supervision							
Always complete entire report: Attach additional pages if necessary to explain situation fully							
1. Tick appropraite box: a. Intial Report b. Corrected Report c. Supplimented Report							
Part I	**Information about Institution Submitting this Report**						
2. Name of Institution							
3. Address of Head Office							
4. Address of Forex bureau where activity/transactions occurred							
Part II	**Information about person or entity engaging in suspicious activities or transaction**						
5. Surname (or Name of entity)							
6. First Name	7. Middle Name						
8. Address							
9. Date of Incorporation (DDMMYY):							
10. Occupation or Business:							
11. Identity verfified by:							
a. Passport	b. National ID Card		c. Other	d. Incorporation No.	e. Date & Place used		
12. Relationship to this Financial Institution: (tick all that apply)							
a. Accountant	d. Attorney	g. Depositor	j. Officer				
b. Agent	e. Borrower	h. Director	k. Shareholder				
c. Appraiser	f. Broker	i. Employee	i. Other				
13. Is suspected affiliated with this institution							
a. Yes	b. No. If no, specify		c. Resigned	d. Suspended	e. Termination		
14. Date of Resignation, Suspension		15. Admission/Confession: a. Yes b. No.					
Termination (DDMMYY)							
Part III	**Information about suspicious activity or transaction**						
16. Date of suspicious activity or transaction			17. Amount involved Kshs.				
(DDMMYY)							
18. General description of suspicious activity or transaction: Large cash exchang(s)							
19 Has suspicious activity or transaction had material impact on or otherwise adversely affected							
the financial soundness of this institution?							
a. Yes	b. No, if yes, describe impact						
20 Has Financial Institution's insurer been notified? A. Yes b. No. If yes, when and how							

CENTRAL BANK OF KENYA

(CAP 491)

FOREX BUREAU GUIDELINES

January 2007 Edition

Transaction of Foreign Exchange Business
by Forex Bureaus