



KENYA DEPOSIT INSURANCE ACT, 2012

DRAFT REGULATIONS

May 2013

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DRAFT

Regulations under Section 74

THE KENYA DEPOSIT INSURANCE ACT REGULATIONS

IN EXERCISE of the powers conferred by section 74 of the Kenya Deposit Insurance Act, the Minister for Finance makes the following Regulations -

THE KENYA DEPOSIT INSURANCE REGULATIONS, 2013

PART I - PRELIMINARY

1. Citation

(1) These Regulations may be cited as the Kenya Deposit Insurance Regulations, 2013.

2. Validity

(1) These Regulations take effect on the date of gazettelement.

3. Policy Statement

(1) The purpose of these Regulations is to promote deposit protection, instill public confidence, and foster financial stability. In this regard, the main objectives of these Regulations are as follows -

- (a) to establish and make the Kenya Deposit Insurance Corporation operational;
- (b) to establish the regulatory framework of the Kenya Deposit Insurance;
- (c) to establish the regulatory framework for the examination and supervisory function of the Kenya Deposit Insurance Corporation;
- (d) to establish regulatory framework for the receiver function of the Kenya Deposit Insurance Corporation; and
- (e) to establish regulatory framework for the liquidator function of the Kenya Deposit Insurance Corporation.

4. Scope

- (1) These Regulations apply to the Corporation, the Central Bank, and to any institution or any other party that is under any obligation pursuant to the provisions of the Act.

5. Definitions and Interpretations

- (1) Terms included in these Regulations, unless otherwise stated, have the meanings assigned under the Act.

- (2) In addition and unless the context otherwise requires -

- (a) "Assumption by another person" means the action of receiving the assets or liabilities that were transferred from a problem institution.
- (b) "Exclusion and transfer process" means the process that commences when shareholders of an institution under receivership fail to provide the necessary resources to restore its financial condition and/or to carry on the necessary management changes. The process consists of -
- (i) exclusion and transfer of part or total deposits and liabilities to another/other solvent and well-managed institution/s;
 - (ii) exclusion and transfer of part or total assets to the institution/s receiving the liabilities; and
 - (iii) liquidation of the residual assets and liabilities.
- (c) "Flat rate contribution" means monies paid to the Fund by member institutions equivalent to a fixed rate of the average of the institution's total deposit liabilities.
- (d) "Insured deposit" means the deposit or any part of the deposit insured by the Corporation under the Act and these Regulations.
- (e) "Lesser Cost Rule" means the adoption of the lower of (1) the cost to the Corporation of payment of insured deposits in liquidation of an institution or (2) the cost to the Corporation in undertaking the exclusion and transfer process.
- (f) "Problem institution" means any institution that places the interest of its depositors or the banking sector at risk.
- (g) "Risk-adjusted contribution" means monies paid to the Fund by member institutions equivalent to a variable rate according to the risk profile of each institution.
- (h) "Sale or other disposal" includes the exclusion of assets and liabilities of a problem institution.
- (i) "Special purpose vehicle" means a legal entity created by transferring assets from the institution under the exclusion and transfer process. The special purpose vehicle facilitates the process of transferring assets by issuing a bond that will be transferred to the institution that receives the deposits and other liabilities.

- (j) "Systemic Risk" means the possibility of a failure of one or more institutions that may cause severe disruptions in the financial system.
- (k) "Target Fund" means a reserve considered adequate to cover the potential losses of the Corporation under normal circumstances and is calculated as a percentage of the total industry deposits or total insured deposits.
- (l) "Uninsured deposit" means the deposit or any part of the deposit not insured by the Corporation under the Kenya Deposit Insurance Act and these Regulations. There are two types of uninsured deposits -
 - (i) The part of deposits that exceeds the maximum coverage level; and
 - (ii) The excluded deposits referred to in section 31 of the Act.
- (m) "Transition period" means the twelve month period after the commencement date.

PART II - ESTABLISHMENT OF THE KENYA DEPOSIT INSURANCE CORPORATION

6. Establishment of the Kenya Deposit Insurance Corporation

- (1) The Kenya Deposit Insurance Corporation shall come into operation from the date of gazettelement of the commencement date of the Act.
- (2) The Corporation may open offices in any part of the Republic of Kenya and appoint agents or correspondents as may be approved by the Board.

7. Powers of the Corporation

- (1) The powers conferred upon the Corporation under section 6(b) of the Act shall be exercised only when necessary to address systemic risk with the recommendation of the Board, the concurrence of the Central Bank and the approval of the Cabinet Secretary.
- (2) The Board shall formulate policies, rules and guidelines for the efficient discharge of the Corporation's functions within such reasonable time after the commencement date.

8. Governance of KDIC

Board of Directors

- (1) The Cabinet Secretary shall appoint members of the Board under Section 7 of the Act at least three months before the expiry of the term of the respective members that will be replaced or to be reappointed as the case may be.
- (2) The Cabinet Secretary shall recommend to the President, at least two months before the expiry of the term, a person to be the chairperson amongst members appointed under

Section 7 of the Act. The person to be appointed as chairperson shall not be from the institutions.

Conduct of business and affairs of the Board

- (3) The Board shall formulate the Board Charter in order to regulate its own procedure, within such reasonable time after the commencement date. The Board Charter shall also observe all the provisions of the Schedule of the Act as is necessary to fulfill the responsibilities of the Board.
- (4) The first meeting of the Board shall be convened within such reasonable time after the commencement date.

Remuneration of Board members

- (5) The Board shall recommend such remuneration, fees or allowances and any reviews thereof for approval by the Cabinet Secretary.
- (6) Until the Cabinet Secretary approves such remuneration, members shall continue to receive remuneration as they received as members of the Deposit Protection Fund Board.

Chief Executive Officer

- (7) The Board shall define the competitive process to recruit the Chief Executive Officer and shall carry out this process within such reasonable time after the commencement date.
- (8) Pending the recruitment of the Chief Executive Officer of the Corporation, the Director of the Deposit Protection Fund Board, at the commencement of the Act, shall hold office in an acting capacity.

Services provided by the Central Bank

- (9) During the transition period, the Central Bank shall provide to the Corporation the services, as rendered to the Deposit Protection Fund Board at the commencement of the Act, and any other services that may be necessary to perform its functions.
- (10) The provision of services by the Central Bank to the Corporation may be renewed by mutual agreement .

Protection from personal liability

- (11) The Corporation shall meet the expenses arising from legal or judicial process that may be incurred by any present or former member of the Board, officer, employee, agent or servant of the Corporation, who is covered under section 13 of the Act.

Code of Conduct

- (12) The Board shall formulate the code of conduct of the Corporation. Board members as well as all employees of the Corporation shall, upon assuming office, sign a deed of

adherence certifying that they have read and understood the provisions of the code of conduct of the Corporation.

9. Organization Structure of the Corporation

- (1) The Board shall establish the organization structure of the Corporation within such reasonable time after the commencement date.
- (2) The Board shall define functions and responsibilities of the Board, its committees, and management for effective and efficient carrying out of the objects of the Corporation.

10. Financial provisions

Funds of the Corporation

- (1) The Corporation shall appropriate monies earned or arising from investments of the Fund in order to meet its annual budgetary requirements.
- (2) The Corporation shall every year transfer to the Fund the monies in excess of the expenditures under section 16(1)(c) of the Act.
- (3) If the purpose for which the reserve fund was created is not undertaken within three years the funds shall be transferred to the Fund.
- (4) If the purpose for which the reserve fund was created is achieved before the maximum period of three years any excess funds shall be transferred to the Fund.
- (5) If at the end of the maximum period of three years the purpose for which the reserve fund was created is in progress the Corporation shall transfer the funds to the Fund and seek Board approval for the creation of a new reserve to complete the purpose for the which the original reserve had been created.
- (6) The Corporation shall open an account with the Central Bank of Kenya for its operational purposes.

Annual estimates

- (7) The annual financial estimates shall be prepared based on efficiency and prudent management of resources, but sufficient to meet the operations of the Corporation.
- (8) Every year, the Cabinet Secretary shall approve the annual financial estimates at least thirty days before the beginning of the financial year to which they relate.

For purposes of continuity, if the commencement date falls in the currency of a financial year, the Corporation shall adopt the annual estimates approved by the Deposit Protection Fund Board prior to the commencement date, including any supplementary estimates. Such estimates shall be financed from the Fund.

Accounts and audit

- (9) The accounts of the Corporation submitted to the Auditor-General or to the appointed auditor under section 19 of the Act shall include the following -
- (a) a balance sheet showing the assets and liabilities as at the end of the financial year;
 - (b) a statement of the income and expenditure for the financial year;
 - (c) a cash flow statement for the financial year;
 - (d) a breakdown of the resources of the Fund and the contributions of the institutions; and
 - (e) any other statements and accounts that may be necessary to fully disclose the financial position of the Corporation.
- (10) The Corporation shall be responsible for the payment of the costs of the examination and audit.
- (11) For the purpose of preparing the financial statements established under section 19 of the Act, the Board shall approve policies and guidelines in accordance with international accounting standards within such reasonable time after the commencement date.

Transparency

- (12) Financial statements prepared by the Corporation in accordance with section 19 of the Act shall be posted on the Corporation's web site.
- (13) At the end of every financial year the Corporation shall publish an annual report of its activities. This report shall be posted on the Corporation's web site.

11. Public awareness

Information to depositors

- (1) Every institution shall display at its head office and branches in the customer service area a legible copy of the certificate of membership issued by the Corporation.

Information to be included in documents

- (2) Every deposit transaction document shall specify the level of deposit insurance coverage.

The Corporation's web site

- (3) The Corporation shall have a web site which shall include updated information on deposit insurance.

Advertisement and other public awareness activities

- (4) The Board shall formulate communication strategy to promote public awareness on deposit insurance.

PART III - REGULATORY FRAMEWORK OF THE DEPOSIT INSURANCE

12. Establishment of the Fund

- (1) Within such reasonable time after the commencement date and upon application by the Corporation, the Central Bank shall open an account for the Fund established under section 20 of the Act.
- (2) The Corporation shall instruct the Central Bank to transfer all monies from the Deposit Protection Fund account to the Fund account.
- (3) For the purposes of financing estimates and budgetary requirements under section 10 of these Regulations, the Corporation shall transfer monies from the Fund to the Corporation's account.
- (4) The Corporation may transfer some of its resources to the Fund according to section 20(5) of the Act, only if such transfer does not pose any risk to the financing of the Corporation's operations.
- (5) If at any time the amount available in the Fund is insufficient to meet the requirements of the Fund, the Corporation may call for contributions from institutions up to a maximum of three years in advance. The Corporation shall define the applicable interest rate in line with government securities.
- (6) The Corporation shall establish a Target Fund adequate to cover potential losses. When the target is achieved the Corporation may reduce or suspend the flat rate contributions of institutions; provided, however, that during this moratorium institutions shall continue to pay the minimum contribution of three hundred thousand shillings, as set out in section 27(3) of the Act and the risk-adjusted contribution under section 15(3) of these Regulations.
- (7) When monies in the Fund decrease below five percent of the target defined under subsection (6), the Corporation shall restore the payment of flat rate contributions.

13. Fund investment

- (1) The monies constituting the Fund may be invested up to the percentage of total funds equal to the share of deposits in local currency in the assets established in section 22(a) of the Act. Those funds may be invested in treasury bills and treasury bonds denominated in local currency.
- (2) The percentage of total funds equal to the share of deposits in foreign currency may be invested in external assets of high liquidity and solvency denominated proportionately in the corresponding foreign currencies.
- (3) The Board shall formulate an investment policy for the Fund, within such reasonable time after the commencement date.

- (4) The investments in foreign assets shall be managed by the Central Bank, according to the Corporation's instructions.

14. Application of the Fund

- (1) In the event the Fund does not have sufficient monies to meet the tasks specified in section 23(a) of the Act, the Corporation shall appropriate from future contributions to set off unpaid insured deposits. In the alternative, the Corporation may resort to other sources of funding allowed under the Act.

15. Contributions by institutions

Flat rate contributions

- (1) An institution shall contribute to the Fund a percentage, as directed by the Corporation from time to time, but not less than 0.15 per cent of the average of its total deposit liabilities during the previous twelve months.
- (2) If the Corporation does not have available information on deposit liabilities for the purpose of determining the contribution of an institution, deposit liabilities for that institution shall be estimated using the latest available data. The contribution for the corresponding period shall be adjusted once the actual information is available.

Risk-adjusted contributions

- (3) In addition to the flat rate contribution, institutions shall contribute a percentage of their total deposit liabilities during the previous twelve months based on the risk-adjusted contribution methodology formulated by the Corporation.
- (4) Within such reasonable time after the commencement date, the Corporation shall develop a risk-adjusted contribution methodology for the calculation of the risk-adjusted contribution specifying at least the following :-
 - (a) categories of risk and the criteria for assigning an institution into a category;
 - (b) the contribution rate that shall apply to each risk category; and
 - (c) the formula for risk-adjusted contributions.
- (5) Institutions shall not be subjected to the risk-adjusted contribution until the Corporation sets the risk-adjusted contribution methodology.

Determination of contributions

- (6) In accordance with the provisions of section 27(2) of the Act, the Corporation shall determine the contributions of institutions under these Regulations.

16. Amount payable as protected deposit

Insured deposits

- (1) The Corporation shall insure the following deposits domiciled within the Republic of Kenya: -
 - (a) current accounts deposits;
 - (b) savings accounts deposits;
 - (c) call deposits;
 - (d) fixed/term deposits; and
 - (e) foreign currency deposits;
- (2) The insured deposits shall be held in: -
 - (a) Commercial Banks, Financial institutions and Mortgage Finance Companies as defined in the Banking Act;
 - (b) Deposit Taking Microfinance Institutions as defined under the Microfinance Act, 2006; and
 - (c) any other entity licensed to carry on deposit taking business by the Central Bank.
- (3) For the purposes of these Regulations, a deposit shall include interest which has been earned on that deposit as may be determined by the Corporation.

Maximum coverage

- (4) The Corporation shall determine, from time to time, the maximum amount payable under section 28(1) of the Act.
- (5) The Corporation shall annually review the coverage level to assess its adequacy.

17. Extent of cover

- (1) Liabilities considered under section 32 of the Act shall be liabilities immediately due and payable.
- (2) When the Corporation is appointed as a receiver of an institution, the Central Bank shall provide the Corporation with details of the depositors that have payable liabilities at the intervention of the institution.

18. Lodging and payment of claims

- (1) The Corporation shall commence payment of insured deposits within thirty days from the date the Corporation is appointed as liquidator by the Central Bank.

- (2) The Corporation shall formulate a guideline for the payment of insured deposits, within such reasonable time after the commencement date. This guideline shall contain a set of policies and procedures for reimbursing deposits that will ensure prompt and adequate reimbursement to depositors. This guideline shall include at a minimum, the following: -
- (a) information to be provided to depositors related to the procedures to be followed by the Corporation to pay deposits;
 - (b) communication channels to make public information to depositors;
 - (c) documentary proof to be presented by depositors;
 - (d) criteria for determining insured deposits per depositor; and
 - (e) means of payment.

PART IV- RECEIVER FUNCTION OF THE CORPORATION

19. Notification of non-viability and suspension of activities

- (1) Upon the appointment of the Corporation as receiver of an institution the institution's activities shall remain suspended; the institution shall stop receiving and paying deposits, granting loans and other regular business activities, save for collection of loans and other activities authorized by the Corporation in writing.
- (2) The suspension of business activities shall be declared by the Central Bank and notified to the Corporation and the institution.
- (3) The Corporation shall notify the depositors of the institution of the suspension of business activities by publishing appropriate notices in at least two national newspapers with wide circulation.
- (4) The suspension of activities under subsection (1) of this Regulation shall be in force until the receivership process ceases.

20. Extraordinary circumstances

- (1) If, in the opinion of the Central Bank and the Ministry of Finance, taking into consideration the financial system and macroeconomic conditions, the suspension of an institution may pose severe threat to the financial stability, the receivership process may be conducted without suspension of its business activities. These circumstances shall be considered extraordinary.

21. Exclusion and transfer process

- (1) Once the Corporation has been appointed as receiver, it shall carry out the following actions :-

- (a) issue notice to the directors of the subject institution to provide the necessary resources as specified by the Corporation within a stated period of time in order to restore the financial condition of the institution and to carry out the necessary management changes in order to enhance governance of the institution and to restore public confidence; and
 - (b) if the directors fail to carry out the actions prescribed under paragraph (a) of this subsection, the Corporation shall commence the exclusion and transfer process.
- (2) The exclusion and transfer process under subsection (1)(b) of this Regulation shall consist of but not be limited to the following :-
- (a) exclusion and transfer of part or total deposits and some liabilities to another or other solvent and well-managed institution(s) that the Central Bank considers eligible;
 - (b) exclusion and transfer of part or total assets to the institution(s) receiving the deposits and other liabilities. The amount of assets subject to exclusion and transfer, after valuation adjustment, should be equivalent to the amount of deposits and other liabilities. Assets under this process may be transferred to a special purpose vehicle that will issue a bond to the institution(s) receiving the deposits and other liabilities; and
 - (c) the liquidation of the residual assets and liabilities by the Corporation upon its appointment as liquidator by the Central Bank.
- (3) The Fund may contribute resources to the exclusion and transfer process under the lesser cost rule.
- (4) If the exclusion and transfer process shall not have been completed within sixty days from the date of appointment of the Corporation as receiver, the Corporation shall make a recommendation to the Central Bank to place the institution under liquidation.
- (5) The Corporation shall issue a guideline for the exclusion and transfer process within such reasonable time after the commencement date. This guideline shall contain the rules and procedures to be applied in the exclusion and transfer process, in accordance with this Regulation.

22. Termination of receivership

- (1) When the receivership is not undertaken under extraordinary circumstances, the period mentioned in section 53(1) of the Act shall be within reasonable time.

PART V- LIQUIDATOR FUNCTION OF THE CORPORATION

23. Liquidation process

- (1) The liquidation process shall be carried out in accordance with the Act and any other relevant law.

- (2) The Corporation shall issue guidelines for the liquidation process within such reasonable time after the commencement date. The guidelines shall contain the rules and procedures to be applied in the liquidation process, in line with the Act.

Notice of appointment and security

- (3) (a) Where the Corporation is appointed as a liquidator of an institution it shall, as soon as practicable thereafter, cause a notice of its appointment to be published in the Kenya Gazette and at least one daily newspaper of wide circulation in Kenya.
- (b) The Corporation shall not be required to give any security by reason of its appointment as liquidator and upon appointment shall be deemed to have given security for the purposes of the Companies (Winding –up) Rules.

Meeting of creditors

- (4) Where the Corporation has been appointed as liquidator of an institution, it shall not unless the court otherwise directs, be necessary for the liquidator to convene a meeting of creditors and contributories under the provisions of the Companies Act.

Power to waive proof of debt

- (5) Where the Corporation has been appointed as liquidator of an institution, it may, if it deems fit, admit the claim of any depositor or class of depositors without submission of formal proof of debt and shall notify the depositor or depositors concerned accordingly.
- (6) The Corporation may make partial or advance payments to any depositors or class of depositors as it may deem appropriate.
- (7) Any depositor who is dissatisfied with the decision of the Corporation may apply to the Court in the same manner as a dissatisfied creditor under the provisions of the Companies (Winding-Up) Rules.

Power of High Court to decide all claims

- (8) (a) The High Court shall, except as otherwise expressly provided in Regulation (9), have exclusive jurisdiction to determine any claim made by or against an institution which is being wound-up or any question of priorities or any claims or other question whatsoever, whether, of law or fact, which may relate to or arise in the course of the winding-up of an institution.
- (b) Any depositor who is dissatisfied with the decision of the Corporation may apply to the Court in the same manner as a dissatisfied creditor under the provisions of the Companies (Winding-Up) Rules.

Transfer of pending proceeding

- (9) (a) Where an institution is being wound-up, no suit or other legal proceeding, whether civil or criminal, in respect of which the High Court has jurisdiction under the Act or these Regulations and which is pending in any other court immediately before the commencement of the Act or the commencement of the winding-up of the institution, whichever is later, shall be proceeded with except in the manner provided under these Regulations.

- (b) The liquidator shall, within three months from the commencement of the winding-up or the commencement of the Act, whichever is later, or such further time as the High Court may allow, submit to the High Court a report containing a list of all such pending proceedings together with particulars thereof.
- (c) On receipt of a report under paragraph (b), the High Court may give the parties concerned an opportunity to show cause why the proceedings should not be transferred to the Court and it shall make such order as it deems fit transferring all or such of the pending proceedings as may be specified in the order to the Court and such proceedings shall thereafter be disposed of by the Court.
- (d) If any proceedings pending in a Court are not transferred to the High Court under paragraph (c), the proceedings shall be continued in the Court in which the proceedings were pending.
- (e) Nothing in this section shall apply to any proceeding pending in appeal before the Court of Appeal or the High Court.

Public examination of officer and others

- (10) (a) In the winding-up of an institution, the liquidator shall determine whether, in his opinion, any loss has been caused to the institution since its formation by any act or omission (whether or not a fraud has been committed by such act or omission) of a person in the promotion or formation of the institution or of any officer or auditor of the institution.
- (b) If the liquidator determines that a loss has been caused by an act or omission referred to in paragraph (a), he may apply to the High Court for an order that any officer or auditor of an institution or any person who has taken part in the promotion or formation of the institution shall be publicly examined and the Court shall hold a public sitting on a date to be appointed for that purpose and direct that such person, director or auditor shall attend thereat and shall be publicly examined as to the promotion or formation or the conduct of the business of the institution or as to his conduct and dealings in so far as they relate to the affairs of the institution.
- (c) The liquidator shall take part in the examination and for that purpose may employ a legal representative of his own choice.
- (d) Any creditor or contributor may also take part in the examination either personally or by an advocate.
- (e) The High Court may put such questions to the person examined as it thinks fit.
- (f) The person examined shall be examined on oath and shall answer all such questions as the High Court may put or allow to be put to him.
- (g) A person ordered to be examined under this section may, at his own cost, employ an advocate who shall be at liberty to put to him such questions as the High Court may deem just for the purpose of enabling him to explain or qualify any answer given by him:

Provided that if he is, in the opinion of the High Court, exculpated from any charges made against him, the High Court may allow such costs in its discretion as it may deem fit.

- (h) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined.
- (i) References in this section to an officer or auditor of an institution shall include a former officer or auditor of that institution.

Special provisions affecting examination

- (11) (a) This regulation shall apply to any examination under Regulation (10) and also to any examination under section 263 or section 265 of the Companies Act which is conducted in the course of the winding-up of any institution whether such winding-up commenced before or after the commencement of the Act.
- (b) No person shall be excused from examination by reason of the fact that any other proceedings, whether criminal or civil, are in progress or contemplated against him.
- (c) The official record of the evidence taken on any such examination may thereafter be used in evidence against any person examined in any civil proceedings and shall be open to the inspection of any creditor or contributory at all reasonable times.

Special provisions for assessing damages

- (12) (a) Where an application is made to the High Court under section 323 of the Companies Act against any person for repayment of restoration of any money or property of an institution and the applicant makes out a prima facie case against such person, the High Court shall make an order against such person to repay and restore the money or property unless he proves that he is not liable to make the repayment or restoration either wholly or in part:

Provided that where such an order is made jointly against two or more persons, they shall be jointly and severally liable to make the repayment or restoration of the money or property.

- (b) Where an application is made to the High Court under section 323 of the Companies Act and the High Court has reason to believe that any property belongs to any promoter, officer, manager or liquidator of the institution, whether the property standings in the name of such person or any other person as an ostensible owner, then the High Court may, at any time, whether before or after making an order under paragraph (a) direct the attachment of such property so attached shall remain subject to attachment unless the ostensible owner and the provisions of the Civil Procedure Act relating to attachment of property shall, as far as may be, apply to such attachment.
- (13) The Corporation may, at any time, resign as liquidator of an institution upon giving written notice to the Official Receiver whereupon the Official Receiver shall become the

liquidator of the institution unless and until another liquidator is appointed by the Court in accordance with the provisions of the Companies Act.

PART VI - EXAMINATION OF INSTITUTIONS, INTERRELATIONSHIP AMONG FINANCIAL SAFETY NET PARTICIPANTS AND INFORMATION FROM INSTITUTIONS

24. Inspection by Central Bank

- (1) In order to enhance efficiency and deepen the interrelationship among financial safety net participants, the Corporation shall provide the Central Bank with a list of the information that it will need, on a regular basis, from institutions. The Central Bank shall provide the information requested to the Corporation.
- (2) The Central Bank shall provide the Corporation with such further information as the Corporation may require from time to time.

25. Special examination by the Corporation

- (1) The special examination by the Corporation shall be conducted under exceptional circumstances. Should it be deemed necessary, the Corporation may hire external professionals to carry out this task on its behalf .

26. Enforcement by the Corporation

- (1) When the membership of an institution is terminated, the institution's depositors prior to the termination date will continue to be insured by the Corporation for the remaining period in respect of which the institution had made a contribution.
- (2) When the membership of an institution is terminated, the Corporation shall publish a notice of the termination in the Gazette and at least one national newspaper with wide circulation.

27. Prompt corrective action

- (1) The primary authority responsible for the analysis and assessment of institutions and the enforcement of prompt corrective actions is the Central Bank.
- (2) The Central Bank shall involve and coordinate with the Corporation in undertaking prompt corrective actions pursuant to section 42 of the Act.
- (3) The Central Bank may take any other prompt corrective action as may be advised by the Corporation.

- (4) The Corporation may take prompt corrective action pursuant to section 44(2)(a) of the Act.
- (5) If the prompt correction actions under section 44(2)(a) of the Act fail, the Corporation shall notify the Central Bank the circumstances that require its appointment as a receiver of the institution pursuant to section 43(1) of the Act.

28. Coordination and cooperation with Central Bank and other authorities

- (1) The Corporation shall establish Memorandum of Agreement and any other suitable arrangements with the Central Bank, within such reasonable period after the commencement date to facilitate the carrying out the functions of the Corporation. Such agreements and/or arrangements, which may be reviewed from time to time, shall address, but not limited to, the following: -
 - (a) communication channels for sharing relevant information including reports of examinations; industry and institutional performance; newly licensed institutions; changes to legal and regulatory framework; rating reports; information obtained by the Corporation; emerging risks arising from new products, services and technology;
 - (b) responsibilities and duties of the Corporation and the Central Bank in conducting examinations of institutions including the Corporation's requests to the Central Bank to conduct examinations; circumstances in which the Corporation shall conduct examinations; coordination arrangements to avoid duplicating efforts and minimizing conflicts;
 - (c) joint initiatives in financial reforms;
 - (d) the consultation and coordination process between the Corporation and the Central Bank on the enforcement of prompt corrective actions; and
 - (e) any other aspect that may be deemed relevant according to the powers and responsibilities assigned to the Corporation.
- (2) Whenever necessary, the Corporation shall disclose information to any monetary authority, financial regulatory authority, fiscal or tax agency or fraud investigations agency locally and outside Kenya where there is a reciprocal arrangement in place.

29. Information requirements and reporting by the institutions

Information to be provided by institutions

- (1) Every institution shall furnish the Corporation on a monthly basis with information in the forms set out in the First Schedule to these Regulations on -
 - (a) total deposit liabilities at the end of the month from the Balance sheet as per the prescribed format detailing total of -
 - (i) current accounts deposits;

- (ii) savings accounts deposits;
 - (iii) call deposits;
 - (iv) fixed/term deposits; and
 - (v) foreign currency deposits;
- (b) total number of depositors;
 - (c) total insured deposits;
 - (d) number of depositors fully covered;
 - (e) total deposits with corresponding loans and debts immediately due and payable; and
 - (f) trustee and joint account holders that have deposits in the institution and information required under section 29 of the Act.
- (2) The information under subsection (1) shall be provided to the Corporation by 15th of every month as at the end of each preceding month.

Other relevant information

(3) *Institutions shall maintain all pertinent information on a depositor in a “single customer view” format for purposes of ease of tracing and identification. Such “single customer view” should, amongst others, contain the following -*

- (a) full names of depositor supported by requisite identification documents;***
- (b) contact details of depositor including postal address, physical address and telephone number(s);***
- (c) all deposit accounts opened by the depositor and their identification (types of deposit and account numbers);***
- (d) type(s) of loan / advance extended to the depositor; and***
- (e) type(s) of loan / advance guaranteed by the depositor.***

(4) The Corporation may from time to time direct institutions to furnish any other information necessary to fulfill its functions. The information shall be in such format and submitted within such time as the Corporation may prescribe.

Reporting Standards

- (5) The Corporation shall formulate a reporting framework to be adopted by institutions that allows for the effective and efficient analysis of financial information provided by institutions within such reasonable time after the commencement date.

PART VII - OFFENCES AND PENALTIES

30. Informing penalties to the Central Bank

- (1) Whenever the Corporation imposes a penalty on an institution, it shall notify the Central Bank, within such reasonable time of the imposition of the penalty, the cause of the offence, the penalty applied and any measures taken by the institution to rectify the offence.
- (2) When an institution consistently fails, delays, or presents erroneous information and/or tampers with the information, the Corporation shall notify the Central Bank to take appropriate action.

DEPOSIT PROTECTION FUND BOARD

FIRST SCHEDULE

KDIC/1/A Certified Statement of Deposits

Institution:

Financial Year:

Start Date:

End Date:

* To include accrued interest foreign currency deposits and any other form of deposit

* LCY stands for Local Currency

* FCY stands for Foreign Currency

No.	RANGE		Licence Number	* TYPE OF DEPOSIT	Number of Accounts	AMOUNT SHS '000'		
1	Less than 50,000	LCY		Demand Accounts				
				Savings				
				Call				
				Fixed				
				Sub-Total		-	-	
			FCY		EUR			
				GBP				
				USD				
				Others				
				Sub-Total		-	-	
		2	50,001 to 100,000	LCY		Demand Accounts		
						Savings		
						Call		
						Fixed		
	Sub-Total					-	-	
	FCY				EUR			
				GBP				
				USD				
				Others				
				Sub-Total		-	-	
3	100,001 to 150,000			LCY		Demand Accounts		
						Savings		
						Call		
						Fixed		
			Sub-Total			-	-	
			FCY		EUR			
				GBP				
				USD				
				Others				
				Sub-Total		-	-	
		4	150,001 to 200,000	LCY		Demand Accounts		
						Savings		
						Call		

			Fixed		
			Sub-Total	-	-
		FCY	EUR		
			GBP		
			USD		
			Others		
			Sub-Total	-	-
5	200,001 to 250,000	LCY	Demand Accounts		
			Savings		
			Call		
			Fixed		
			Sub-Total	-	-
		FCY	EUR		
			GBP		
			USD		
			Others		
			Sub-Total	-	-
6	250,001 to 300,000	LCY	Demand Accounts		
			Savings		
			Call		
			Fixed		
			Sub-Total	-	-
		FCY	EUR		
			GBP		
			USD		
			Others		
			Sub-Total	-	-
7	300,001 to 350,000	LCY	Demand Accounts		
			Savings		
			Call		
			Fixed		
			Sub-Total	-	-
		FCY	EUR		
			GBP		
			USD		
			Others		
			Sub-Total	-	-
8	350,001 to 400,000	LCY	Demand Accounts		
			Savings		
			Call		
			Fixed		
			Sub-Total	-	-
		FCY	EUR		
			GBP		
			USD		
			Others		

			Sub-Total	-	-
9	400,001 to 450,000	LCY	Demand Accounts		
			Savings		
			Call		
			Fixed		
			Sub-Total	-	-
		FCY	EUR		
			GBP		
			USD		
			Others		
			Sub-Total	-	-
10	450,001 to 500,000	LCY	Demand Accounts		
			Savings		
			Call		
			Fixed		
			Sub-Total	-	-
		FCY	EUR		
			GBP		
			USD		
			Others		
			Sub-Total	-	-
11	500,001 to 1,000,000	LCY	Demand Accounts		
			Savings		
			Call		
			Fixed		
			Sub-Total	-	-
		FCY	EUR		
			GBP		
			USD		
			Others		
			Sub-Total	-	-
12	Over 1,000,000	LCY	Demand Accounts		
			Savings		
			Call		
			Fixed		
			Sub-Total	-	-
		FCY	EUR		
			GBP		
			USD		
			Others		
			Sub-Total	-	-
			GRAND TOTAL	-	-

We declare that this return, to the best of our knowledge and belief is correct.

Name of compiling officer: Date:

Name of authorizing officer (1): Date:

Name of authorizing officer (2): Date:

FIRST SCHEDULE

KDIC/1/B Certified Statement of Deposits and Loans

Institution: _____
Financial Year: _____
Start Date: _____
End Date: _____
License Number: _____

No.	ITEM	NUMBER	AMOUNT OF DEPOSITS SHS '000'	AMOUNT OF LOANS/ADVANCES SHS '000'	
				TOTAL	DUE & PAYABLE
1	Total Depositors				
2	Fully Covered Depositors				
3	Partially Covered Depositors				
4	Trustee Accounts				
5	Joint Accounts				
6	Deposit Accounts With Loans/Advances				

We declare that this return, to the best of our knowledge and belief is correct.

Name of compiling officer:

Name of authorizing officer (1):

Name of authorizing officer (2):

NOTES TO THE FIRST SCHEDULE

1. Local and foreign currency deposits.

Local currency deposits should be captured in their respective product category deposit range. For foreign currency the KES equivalent totals of each of the three specified currencies, US Dollars, British Pounds and Euros should be indicated separately and other foreign currencies not specified should be consolidated and reported together.

2. To determine insured deposits:

(a) Calculate the aggregate credit balance of deposit accounts by customers;

- i) amounts maintained by a customer at the end of the month in all insured accounts have to be summed up; and
- ii) total loans and debts immediately due and payable by a customer having deposits have to be subtracted from the total sum calculated in (i).

(b) Calculate the total deposits per customer subject to the maximum coverage determined in the KDI Act and/or Regulation.

Example considering that deposits are insured up to KSh. 250,000:

- (i) *If person A has Ksh. 50,000 in a saving account, Ksh. 10,000 in a fixed term deposit, and Ksh. 5,000 in a loan due at the end of the month, the aggregate credit balance for person A is Ksh. 55,000. Total insured deposits are Ksh. 55,000.*
- (ii) *If person B has Ksh. 200,000 in a current account, Ksh. 400,000 in a foreign currency account, and no loans or debts immediately due and payable, the aggregate credit balance for person B is Ksh. 600,000. Total insured deposits are Ksh. 250,000.*
- (iii) *If these are the only customers of institution 1, total insured deposits for the institution are Ksh. 305,000.*

3. Trust and joint accounts:

(a) the deposit of the depositor as trustee or as a joint owner, shall be deemed to be a deposit separate from any deposit of that depositor acting on his own behalf or acting in another trust or joint capacity with the institution;

(b) the deposit held in trust by the trustee for each beneficiary, shall be deemed to be a separate deposit where the trustee is acting for two or more beneficiaries; and

(c) the deposit held in trust by a trustee for a beneficiary in an institution shall be deemed to be a deposit separate from a deposit of that beneficiary with the institution on his own behalf and shall also be deemed to be separate from any deposit held in trust by another trustee for the beneficiary in the institution.

4. Deposit accounts with loans and advances:

(a) indicate the total amount (outstanding balance) of loans and/or advances relating to the depositors including any loan or advance guaranteed by the depositor;

(b) indicate the portion of (a) above that is immediately due and payable.

DEPOSIT PROTECTION FUND BOARD