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THE CENTRAL BANK OF KENYA ACT (Cap 491)

IN EXERCISE of the powers conferred by sections 2, 33B and 57 of the Central Bank of Kenya Act, the Central Bank of Kenya makes the following Regulations:

THE MONEY REMITTANCE REGULATIONS, 2012

PART I- PRELIMINARY

1. Citation

These Regulations may be cited as the Money Remittance Regulations, 2012.

2. Policy Statement

The purpose of the regulation is to:

- 1) Specify conditions for licensing and supervision of persons licensed to transact money remittance business;
- 2) To encourage the increased use of formal funds transfer systems through the facilitation of foreign exchange transfers and remittances that are timely, accessible, cost effective, and reliable;
- 3) Require money remittance providers to observe anti-money laundering and combating of the financing of terrorism measures.

3. Scope

These Regulations apply to all money remittance providers licensed to operate within Kenya.

4. Interpretations

In these Regulations unless the context otherwise requires:

“Act” means the Central Bank of Kenya Act, Cap 491.

“Agent” means an entity that has been contracted by a money remittance provider and approved by the Central Bank to provide the services of the money remittance

on behalf of the money remittance provider in the manner specified in these Regulations.

“Licensing” means approval granted in accordance with these Regulations to allow the holder to carry on money remittance business.

“Bank” means Central Bank of Kenya.

“Core capital” means permanent shareholders’ equity in form of issued and fully paid-up shares of common stock plus all disclosed reserves, less goodwill and any other intangible assets.

“Foreign currency” means foreign currency as defined under the Central Bank of Kenya Act.

“Money Laundering” is an offence as defined in the Proceeds of Crime and Anti-Money Laundering Act, 2009.

“Money remittance business” means the acceptance of monies for the purposes of transmitting them to persons resident in Kenya or another country.

“Money remittance provider” means a person licensed to undertake money remittance business.

“Non-resident” means a person or body of persons other than a resident.

“Officer” means a director, chief executive officer or any other senior officer of a money remittance provider who has been vetted and approved by the Central Bank of Kenya.

“Outlet” means a place of business of a money remittance provider that has been approved by the Central Bank of Kenya.

“Payment” means the transfer of currency for the purpose of discharging a liability, making a gift or donation or for creating a balance at a bank or financial institution which can be drawn upon.

“Payment for current transaction” means a payment other than a payment for transferring capital and includes:

- (a) A payment due in connection with trade;
- (b) A payment due as interest or as net income or return from other investments;
- (c) A payment for amortization of a loan or for depreciation of direct investment;
- or
- (d) A remittance for family living expenses.

“Resident” means:-

- (a) An individual who has been present in Kenya continuously for a period of at least one year or who has declared his intention to reside in Kenya for a period of at least one year to Kenyan immigration authorities;
- (b) The Government of Kenya or any accredited official of its diplomatic missions residing outside Kenya;
- (c) A company or other body of persons whose principle place of business is located in Kenya and branches of such company or body located in Kenya;
- (d) Branches of a company or other body of persons carrying on business in Kenya whose principal place of business is located outside Kenya excluding any foreign diplomatic mission or any of its accredited officials or any organization established in or outside Kenya by international treaty or any of its accredited officials.

PART II- ESTABLISHMENT AND LICENSING OF MONEY REMITTANCE PROVIDERS

5. Licensing of Money Remittance Providers (MRPs)

- (1) A person shall not provide money remittance services in Kenya unless such person is:
 - (a) Established and incorporated as a limited liability company under the Companies Act whose business name incorporates the words “Money Remittance Provider”; and
 - (b) Licensed to provide money remittance services under these Regulations.
- (2) A person who wishes to transact the business of money remittance in Kenya shall:
 - (a) seek the Bank’s approval for the proposed business name before incorporation;
 - (b) have a minimum core capital of not less than Kshs.20,000,000 before commencement of operations which should be maintained at all times;

- (c) have a fixed and identifiable place of business that is accessible to the public and suitable in all respects for the business of money remittance as may be determined by the Bank ;
- (3) The Bank shall consider the following factors in making a decision to grant a licence:
- (a) the applicant's statement of financial affairs;
 - (b) the competence and integrity of the applicant's proposed management;
 - (c) the adequacy of the applicant's capital structure, earning prospects, business and financial plans;
 - (d) whether the public interest will be served by the granting of the licence to the applicant;
 - (e) the history, character and integrity of the applicant's shareholders and proposed directors.

6. Application and Granting of a Licence

- (1) An application for money remittance licence shall be submitted to the Bank and addressed to the office responsible for licensing and supervision of money remittance services at the Central Bank of Kenya in a duly completed FORM/CBK/MRB/1 as set out in the First Schedule in these Regulations accompanied by the following information:
- (a) non-refundable application fee of Kshs.20,000 payable by bankers cheque to the Central Bank of Kenya;
 - (b) a certified copy of the applicant's certificate of incorporation;
 - (c) a certified copy of the applicant's memorandum and articles of association;

- (d) feasibility study by the applicant indicating the nature of the planned business, organization structure and internal control systems and monitoring procedures of the company, covering inter-alia the following aspects:
- i) The name and location of proposed business premises.
 - ii) Ownership structure.
 - iii) Governance and management structure.
 - iv) Market analysis (competition and demand analysis).
 - v) Products.
 - vi) Three year projected financial statements (statement of financial position, statement of comprehensive income; and cash flow statement).
 - vii) Business continuity plan
- (e) bank statements of the applicant, shareholders and directors of the proposed money remittance provider for a period of six months prior to the date of application;
- (f) duly completed fit and proper forms FORM/CBK/MRB/2 as set out in the Second Schedule in these Regulations for the shareholders, directors, chief executive officer and any other senior officers of the money remittance provider as may be determined by the Bank;
- (g) credit reports from a credit reference bureau for the applicant, shareholders, directors, the chief executive officer and any other senior officers of the money remittance provider as may be determined by the Bank;
- (h) a declaration by the applicant that none of its directors and/or shareholders has ever been declared bankrupt, participated in the management of a collapsed institution, 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;

- (i) a declaration by the applicant that none of its directors and/or shareholders holds a similar position or role in another money remittance provider;
 - (j) an undertaking by the applicant to comply with the provisions of the Central Bank of Kenya Act, the Proceeds of Crime and Anti Money Laundering Act, 2009, Prevention of Terrorism Act, 2012 or any directives issued by the Bank; and
 - (k) any other information as may be required by the Bank.
- (2) The following factors shall at a minimum be considered in determining whether or not a person is fit and proper to own or control a money remittance provider:
- (a) conviction of an offence of fraud or any other offence of which dishonesty is an element;
 - (b) contravention of the provisions of any law designed to safeguard the integrity of the financial system and for the protection of members of the public against financial loss due to dishonesty or incompetence or malpractices by persons engaged in provision of financial services;
 - (c) being a past director or senior officer of an institution licensed by the Bank of Kenya that has been liquidated, placed under statutory management or whose licence has been revoked;
 - (d) past engagement in any business practices that, in the opinion of the Bank of Kenya, were fraudulent, prejudicial or otherwise improper (whether lawful or not) or which otherwise discredited his/her methods of conducting business;
 - (e) participation or association with any other business practices as would, or otherwise conducted himself/herself in such manner as to cast doubt on his competence and soundness of judgment;

- (f) defaulting in repayment of any credit facility made to him by any institution;
 - (g) evasion of taxes;
 - (h) removal from an office of trust on account of misconduct, abuse of office, corruption or incompetence in the immediately preceding ten years;
 - (i) legal disability; and
 - (j) any other factors as may be determined by the Bank.
- (3) The Bank shall license a money remittance provider if the applicant meets the requirements set out in these regulations and shall within 90 days of the date of lodging the application:
- (a) request for any additional information that it may require; and
 - (b) where it is satisfied that all the necessary requirements have been met, issue a letter of intent to the applicant advising the applicant to fulfill the following:
 - i) Pay the licence fee of Kshs.100,000.
 - ii) Obtain a security bond from a commercial bank equivalent to 10% of the total business turnover for the preceding 12 months to 30th September of each year subject to a minimum of Kshs.10,000,000 whichever is higher. Where a money remittance provider ceases to carry out money transfer business, the Bank will utilize the security bond to offset any claims against it by customers for unremitted funds.
 - iii) Prepare the premises for inspection by the Bank prior to commencement of business.

- (c) Inform the applicant in writing that the application has been declined and advise the unsuccessful applicant that an appeal to the Bank for review of the decision to decline may be lodged within 30 days from the date thereof.
- (4) Where a money remittance provider is licensed by the Bank;
- (a) there shall be no refund of the licence fee paid to the Bank in the event that licence is cancelled or revoked or a money remittance provider ceases to carry on business at any time before expiry of the licence;
 - (b) there shall be no proration of the licence fee paid in the course of the year;
 - (c) the Bank may in conformity with the regulations add, vary or substitute any condition to the licence;
 - (d) the licence is valid for a period of one calendar year i.e. January 1 to December 31 or the remaining period to December 31 for new licence granted in the course of the year;
 - (e) the licence granted shall not be transferred, assigned or encumbered in any way;
 - (f) the licence shall be revoked if the money remittance provider fails to conduct the service of money remittance within twelve (12) months of the date of issue of the licence without the written consent of the Bank or at any other time as provided under Regulation 28 on suspension and revocation of licence;
- (5) A money remittance provider shall be licensed on condition that it shall not engage in any business operation other than as authorized under these regulations.

7. Renewal of Licence

- (1) An application for renewal of licence to provide money remittance services shall be submitted to the Bank in FORM/CBK/MRB/1 as set out in the First schedule in these Regulations at least one month before the expiry of the licence.

- (2) The Bank may renew a licence where;
 - (a) it is satisfied that the money remittance provider has been operating in conformity with these regulations;
 - (b) the money remittance provider has paid the prescribed licence fee and all outstanding penalties imposed or levied on the money remittance provider under the regulations;
 - (c) the money remittance provider has met its tax obligations and submitted current certified copy of tax compliance certificate or its equivalent as issued by the Kenya Revenue Authority;
 - (d) the money remittance provider, its shareholders and directors have not defaulted in repayment of any credit facilities granted to them by any institution as indicated in their individual credit reports or any other source as the Bank may from time to time determine;
 - (e) Where a money remittance provider submits an application for renewal of licence as provided under subsection (1) above, it shall be deemed to be operating with a valid licence during the period commencing from the date of expiry of the previous licence until the date on which the licence is renewed or the application for renewal is declined.

- (3) Where a money remittance provider fails to fulfill any of the conditions set by the Bank for the purpose of renewal of its licence within ninety (90) days from the date of expiry of licence, the licence shall not be renewed and shall be revoked.

8. Prescribed Fees

(1) The prescribed fees payable by money remittance providers in respect of various applications shall be as set out in table 1:

Table 1: Prescribed Fees

	Type	Fees (Kshs)
1.	Annual licence fee per outlet	100,000
2.	Application fee for a new licence	20,000
3.	Application fee for a new outlet	10,000

(2) Fees payable under subsection (1) above shall be paid by bankers cheque payable to the Bank or by any other means prescribed by the Bank.

9. Ownership and Management

(1) No person shall become a shareholder of a money remittance provider unless such a person is deemed 'fit and proper' and approved by the Bank.

(2) A money remittance provider shall not transfer its share capital without prior written approval of the Bank.

(3) Directors, chief executive officers and other senior officers of money remittance providers as may be determined by the Bank shall be vetted and approved by the Bank prior to assuming office.

(4) Money remittance providers shall appoint:

(a) at least two directors;

(b) a chief executive officer and other senior officers responsible for all the operations of the money remittance business as may be determined by the Bank; and

(5) Application for approval of officers under subsection (3) above shall be forwarded to the Bank accompanied by the following documents:

- (a) duly completed fit and proper form, FORM/CBK/MRB/2, as set out in the Second Schedule of these Regulations;
 - (b) certified copy of Identity Card or Passport;
 - (c) certified copy of academic and school leaving certificate;
 - (d) curriculum vitae;
 - (e) two passport size photographs;
 - (f) certificate of good conduct;
 - (g) credit reports of the officers from a credit reference bureau;
 - (h) any other documents as may be required by the Central Bank of Kenya from time to time.
- (6) The chief executive officer and all senior officers approved by the Bank shall be full time employees of the money remittance provider.
- (7) The directors, chief executive officer and all senior officers of a money remittance provider shall have minimum educational qualification of ordinary level certificate or its equivalent and have adequate knowledge of money remittance operations, these regulations, the Central Bank of Kenya Act, the Proceeds of Crime and the Anti-Money Laundering Act, 2009 and any other relevant legislation.
- (8) No person shall become a shareholder or an officer in more than one money remittance provider.
- (9) Money remittance providers shall ensure that all staff are adequately trained in the operations of the money remittance business and regulatory requirements.
- (10) The directors and management of a money remittance provider shall:

- (a) Ensure the activities conducted by the money remittance providers are in full conformity with these Regulations;
- (b) Ensure the money remittance provider maintains, at all times, an effective system of internal controls; and
- (c) Develop appropriate policies and procedures to guide all areas of its operations including accounting, human resources and information technology.

10. Disqualification of Shareholders and Senior Officers

- (1) The Bank may disqualify approved shareholders, directors or senior officers of a money remittance provider who:
 - (a) fail to adhere to these Regulations, the Central Bank of Kenya Act or any directives issued by the Bank;
 - (b) fail to meet vetting requirements on an on-going basis;
- (2) A money remittance provider shall ensure that no person shall be an officer or an employee of the money remittance provider, or if already in employment, shall be disqualified and shall not thereafter be eligible to hold office or be in the employment of any money remittance provider if such person is:
 - (a) An undischarged bankrupt or enters into a composition or scheme of arrangement with his creditors;
 - (b) Convicted of an offence involving fraud or dishonesty; or
 - (c) Removed from office under the provisions of these Regulations.

PART III- OPERATIONS OF MONEY REMITTANCE PROVIDERS

11. Authorized Business Activities

- (1) Money remittance providers shall deal in inbound and outbound international money transfer business. The following conditions shall apply in the transaction:
 - (a) A payment transaction must be executed in the currency agreed between the parties;
 - (b) Where a currency conversion service is offered before initiation of payment transaction, the money remittance provider must disclose all charges as well as the exchange rate to be used for converting the payment transaction.
- (2) Money remittance business shall be conducted through partnership with International Money Transfer Operators or acquisition of franchise by local money remittance provider from a International Money Remittance Operators.
- (3) Money remittance providers may conduct money transfer as agents of mobile phone companies subject to prior approval of the Bank and shall:
 - (a) submit to the Bank a signed copy of the contract/agreement between the money remittance provider and the telecoms company or the agent;
 - (b) Money remittance provider shall provide a list of all locations of International Money Remittance Operator in the world that are duly authorized entities according to the laws on money remittance in those countries.
 - (c) The Bank in deciding whether to approve an international agent may request information or opinion from the host countries.
 - (d) submit any other additional information as may be required by the Bank ;
 - (e) conduct business in compliance with both the applicable laws and regulations of the Agency and these regulations.

- (4) A money remittance provider may be allowed to conduct money remittance business through agents such as commercial banks, forex bureaus, telecoms and Kenya Post Office Savings Bank or any other company or organization that the Bank may approve.
- (5) The contract between a money remittance provider and an agent shall contain as a minimum, the following information:
- (a) The money remittance provider is wholly responsible for and liable for all actions or omissions of the agent. The responsibility extends to actions of the agent even if not authorized in the contract so long as they relate to money remittance business or matters connected therewith;
 - (b) Measures to mitigate risks associated with agent business including, limits, customer transactions, cash management, cash security, security of agent premises and insurance policies;
 - (c) Specific services to be rendered by the agent;
 - (d) The rights, expectations, responsibilities and liabilities of both parties;
 - (e) The Bank shall have free, full, unfettered and timely access to the internal systems, documents, reports, records, staff and premises of the agents in so far as money remittance business is concerned and shall exercise such powers as it may deem necessary;
 - (f) AML/CFT requirements;
 - (g) Duty by the agent to deliver transaction support documents;
 - (h) A statement that all information or data that the agent collects in relation to agent money remittance services, whether from the customers, the money remittance provider or from other sources, is the property of the money remittance provider;

- (i) Adequate oversight safeguards for the money remittance provider to address instances of non-compliance by the agent with the stipulated obligations;
 - (j) Prohibition from charging the customer any fees;
 - (k) Business hours of the agent;
 - (l) Suitable limits on cash holding by the agent and also limits on individual customer payments and receipts;
 - (m) Confidentiality of customer and user information;
 - (n) Remuneration for the agent;
 - (o) A statement that the Bank can at any time terminate the contract in the exercise of its powers under these Regulations or any other law;
 - (p) A transition clause on the rights and obligations of the money remittance provider and the agent upon termination or cessation of the agency contract;
 - (q) A requirement for the money remittance provider's prior approval to be obtained when an agent is seeking to transfer the agency business.
- (6) Money remittance providers shall be allowed to be appointed as agents of commercial banks under Agency Banking Guidelines.

12. Unauthorised Business Activities

- (1) Money remittance providers shall not be permitted to:
 - (a) act as authorized dealers in gold;
 - (b) engage in lending money;

- (c) engage in deposit taking;
 - (d) Cheque cashing;
 - (e) maintain current accounts on behalf of customers;
 - (f) establish letters of credit;
 - (g) act as custodians of funds on behalf of customers; and
 - (h) engage in such other activity as the Bank may prescribe.
- (2) Money remittance providers shall not allow or process transactions that are or appear to have been deliberately split into small amounts equivalent to US\$10,000 or below to avoid the requirement of reporting to the Bank.
- (3) Money remittance providers may carry out any other activity that the Bank may approve from time to time.

13. Place of business

- (1) A money remittance provider may be permitted to open outlets and shall designate one of the outlets as its head office.
- (2) The Bank shall carry-out an onsite inspection of the applicant's premises to determine:
- (a) Suitability of the premises for money remittance business;
 - (b) Adequacy of the management information system, administrative and operational processes and the internal control system;
- (3) A money remittance provider shall seek prior written approval from the Bank before opening a new outlet by submitting an application accompanied by a duly completed FORM CBK/MRB/4 as set out in the fourth Schedule of these

Regulations; the prescribed application fees and other documents as may be determined by the Bank .

- (4) An approval to operate an outlet may be granted by the Bank upon fulfillment of all requirements including inspection of the business premises and payment of the prescribed fees.
- (5) A money remittance provider shall notify the Bank of the business hours for each of its outlets.
- (6) No money remittance provider shall change its business hours without notifying the Bank.
- (7) The approved business hours should be displayed prominently at each of the money remittance provider's business premises.
- (8) A money remittance provider shall display prominently at each of its business premises:
 - (a) the current licence to engage in money remittance;
 - (b) details of levies/tariffs to be charged;
 - (c) a notice informing the customers that they are entitled to be issued with a receipt for any money remittance transactions; and
 - (d) a notice to the effect that the money remittance provider is not allowed to maintain current accounts on behalf of the clients.
- (9) A money remittance provider shall not relocate its business from approved premises without prior written approval of the Bank.
- (10) A money remittance provider shall ensure that it seeks prior written approval of the Bank for temporary closure of any of its places of business.

- (11) A money remittance provider shall not be allowed to sublet, lease or authorize any other person to undertake any other business or offer any other product(s) or services in its business premises other than as approved by the Bank.
- (12) The business premises of a money remittance provider shall be accessible to the general public and the Bank.
- (13) The Bank shall before granting any approval under these regulations in respect of opening an outlet, satisfy itself that:
- (a) the money remittance provider is financially sound;
 - (b) the management of the money remittance provider has been certified as fit and proper by the Bank ;
 - (c) the capital structure and earning prospects, business and financial plans of the money remittance provider are adequate;
 - (d) the public interest will be served by the opening of a new place of business in that location;
 - (e) the outlet will enhance the operations and performance of the money remittance provider;
 - (f) the money remittance provider has the capacity to process information of all its outlets on-line; and
 - (g) the money remittance is fully compliant with these regulations and the Central Bank of Kenya Act.
- (14) The Bank may, in granting approval under sub section (11), impose such other conditions as it deems fit.

- (15) A money remittance provider facing operational challenges, disclosure of which shall be made to the Bank, will be required to seek prior written approval from the Bank to close or suspend the operations of the money remittance provider temporarily.

14. Equipment

- (1) A money remittance provider shall have the necessary equipment to;
- (a) detect counterfeit currency;
 - (b) determine the appropriate levies and tariffs;
 - (c) communicate effectively; and
 - (d) process data and generate reports that meet regulatory requirements.

15. Bank accounts

- (1) Every person granted licence to conduct money remittance business shall maintain an account in the name of the money remittance provider at a commercial bank licensed pursuant to the Banking Act in Kenya entitled “customers’ account”.
- (2) Every money remittance provider carrying on money remittance business shall pay into the account all amounts that are received from its customers for remittance purposes not later than the next business day following the day on which the moneys were received.
- (3) No money shall be withdrawn from the customers’ account except:-
- (a) Money that has been paid into the account by the money remittance provider for the purposes of opening or maintaining the account;
 - (b) Money properly required for payment to or on behalf of a customer;

- (c) Money properly required for payment of the charges for rendering services to a customer and the customer has notified that any money held on their behalf will be applied towards or in satisfaction of such fees and charges.
- (4) No money other than money which a money remittance provider has paid into a customers' account for the purposes of opening the account and money required to be paid under sub regulation (2) above shall be paid into such an account.
- (5) It shall be the duty of the money remittance provider to withdraw any money paid into the customers' account in contravention of the sub regulation (4) above upon discovery of the mistake.
- (6) The money in a customers' account maintained by a money remittance provider at a bank is not liable to be attached in respect of any debt.

16. Foreign Exchange inflows and outflows

- (1) All foreign exchange inflows and outflows of money remittance providers shall be received through commercial banks, documented and advised to the Bank in the prescribed format.

17. Records of Transactions and Documentations

- (1) A money remittance provider shall maintain a sound management information system that facilitates efficient collection and processing of statistical data and information required to provide audit trails for use by internal auditors, external auditors and the Bank.
- (2) A money remittance provider is required to maintain accurate and meaningful originator and beneficiary information for a period not less than seven years on funds received/remitted by requiring the sender/recipient to fill up and sign an application form, which shall contain the following minimum data and information:–

- (a) Date.

- (b) Printed name and signature of remitter or beneficiary.
 - (c) Identity card / passport number of customer.
 - (d) Present address.
 - (e) Permanent Address.
 - (f) Date and place of birth.
 - (g) Telephone number (If applicable).
 - (h) Nationality.
 - (i) Amount and currency to be remitted or received.
 - (j) The principal activity of the customer conducting the transaction.
 - (k) Purpose of remittance.
 - (l) Source of Funds.
- (3) A money remittance provider shall, for every transaction, issue an accurate receipt which should contain the following information as a minimum;
- (a) full names of the customer;
 - (b) identity card/ passport number of customer;
 - (c) the type and amount of currency (send or receive);
 - (d) the transaction number;
 - (e) the nature, time and date of the transaction;

- (f) name and address of the money remittance provider and name of the employee who served the customer;
 - (g) a brief statement on source or purpose of the funds;
 - (h) customer signature; and
 - (i) commission charged.
- (4) All transactions generated by the money remittance provider in the course of its business activities must be posted to its books of accounts.
- (5) A money remittance provider shall maintain the following records:
- (a) list of all transactions;
 - (b) a daily summary of all monies received and sent;
 - (c) fixed assets list; and
 - (d) any other records applicable to the money remittance provider or as may be specified by the Bank .
- (6) A money remittance provider shall keep all records up to date, cross-checked and verified on a daily basis.
- (7) A money remittance provider shall retain all relevant records obtained by them during the course of their operations and keep them for at least 7 years from the date on which the record was created. The records should at a minimum include the following details:
- (a) transaction receipts;

- (b) a copy of documentary evidence used to verify the identity of the customer; and
 - (c) dully completed application forms for all money remittance transactions.
- (8) The retention of the relevant records under subsection (7) may be effected by electronic means.
- (9) A money remittance provider shall maintain such books of accounts and records so as to enable timely preparation of audited annual financial statements and generation of reports.
- (10) Correspondences, registers, books of accounts and financial statements relating to the operations of the money remittance business shall be properly maintained.

18. Submissions to the Bank

- (1) A money remittance provider shall submit the following returns to the Bank on-line or as directed in the prescribed format;
- (a) daily returns of money sent and received equivalent to or above US\$10,000 including customers who transact repeat transactions in a day amounting to US\$10,000;
 - (b) weekly returns of money remittance transactions not later than 3.00 p.m. on the first working day of the following week;
 - (c) quarterly balance sheet and profit and loss account within thirty days after the end of every quarter;
 - (d) audited balance sheet and profit and loss accounts within three months after the end of the financial year;
 - (e) any other return as may be prescribed by the Bank from time to time.

(2) The financial year for all money remittance providers shall be January 1 to December 31.

(3) A money remittance provider should ensure that accurate returns are submitted to the Bank as required.

PART IV- Anti-Money Laundering

19. Policies and procedures

(1) The board of directors and management of money remittance provider shall formulate, adopt and apply appropriate policies and procedures to detect, prevent, report or otherwise deal with incidences of money laundering.

(2) Customer Due Diligence:

(a) A money remittance provider should have a customer identification program that delineates the procedures for identifying customers and documentation to be obtained from the customer in this regard;

(b) Customer due diligence measures are to be applied prior to the commencement of a transaction and appropriate documentation used to establish a customer's identity. Such documentation should be verified by the money remittance provider;

(c) The following information shall be the minimum acceptable for determining the true identity of customers wishing to make transactions:

(i) In the case of an individual;

- I. a birth certificate;
 - II. a national identity card;
 - III. a driver's licence;
 - IV. a passport; or
 - V. any other official means of identification as may be prescribed;
- and

(ii) In the case of a body corporate;

- I. evidence of registration or incorporation (such as a certified copy of Certificate of Registration or Certificate of Incorporation, Partnership Deed or Memorandum and Articles of Association);
 - II. the Act establishing the body corporate (in case of a state corporation);
 - III. a corporate resolution authorising a person to act on behalf of the body corporate together with a copy of the latest annual return submitted in respect of the body corporate in accordance with the law under which it is established; and
 - IV. or any other item as may be prescribed.
- (d) In the case of a government department, a letter from the accounting officer.
- (e) In instances where it appears that a customer is acting on behalf of another person, money remittance providers will be required to take reasonable measures to establish the true identity of the person on whose behalf or for whose ultimate benefit the customer may be acting in the proposed transaction, whether as a trustee, nominee, agent or otherwise.
- (f) Money remittance providers should ensure that their customers do not use fictitious names when transacting.
- (g) Money remittance providers should have adequate system in place to enable them verify whether the customer is on the United Nations' terror watch list.

20. Training

- (1) Directors of money remittance providers must ensure that all their employees are trained to recognise and deal with transactions which may be related to money laundering and ensure that they are aware of the provisions relating to anti- money laundering under the money remittance regulations and the Proceeds of Crime and Anti-Money Laundering Act 2009.

21. Suspicious Transactions

- (1) Money remittance provider shall submit to the Financial Reporting Centre, a report of any suspicious transactions or any activities which may indicate suspected money laundering or other attempts to conceal the true identity of customers or ownership of assets in the prescribed FORM/ CBK/MRB/3.
- (2) Money remittance providers shall be guided by the examples of Suspicious Transactions provided under the Fifth Schedule of these Regulations.

22. Tipping Off

- (1) The directors and management of money remittance providers must ensure that persons suspected of engaging in money laundering or are under investigations are not tipped off.

PART V - CUSTOMER PROTECTION

23. Disclosure

- (1) Money remittance providers shall disclose the following information in writing to their clients:
 - (a) The fees, charges or commissions, if any, and other conditions applicable to the money remittance services rendered;
 - (b) That money remittance provider is neither a deposit taking nor lending institution within the meaning of the Banking Act, the Microfinance Act or the SACCO Societies Act and is not subject to any deposit protection; and
 - (c) Available customer care procedures for complaints together with the address, customer care contact number and other contact details for the money remittance provider.

24. Consumer redress

- (1) Money remittance provider shall, within six months after commencing business establish a customer care system to address the complaints of clients.

- (2) Money remittance providers shall provide easily understood information about the customer care system, including the customer care contact number, at its head office, outlets as well as the premises of agents.
- (3) Complaints may be lodged orally or in writing, but in each case must be lodged within a period of 30 days from the date of occurrence.
- (4) Money remittance providers shall acknowledge all complaints filed with them.
- (5) At the time of making a complaint the complainant shall be advised of the expected actions and timing for investigating and resolving the complaint, provided that all complaints shall be resolved within sixty days of being lodged.
- (6) Money remittance providers shall put in place processes to provide complainants with sufficient information and the means to inquire on the progress of complaints and such processes may include complaint reference numbers or other identifiers in order to facilitate timely and accurate responses to subsequent inquiries by complainants.
- (7) Complainants shall be advised of the outcome of the investigation of their complaint, and any resulting decision by the money remittance providers.
- (8) Where a complainant is not satisfied with a decision reached pursuant to a complaint, the money remittance provider shall give the complainant the option of pursuing an identified escalation process by which the decision may be examined by a suitably qualified person in the organization.
- (9) Complaint handling processes shall be provided free of charge but a money remittance provider may impose a reasonable charge for complaint handling processes where investigation of the complaint requires the retrieval of records more than three months old, and where the retrieval results in an incremental expense or significant inconvenience to the money remittance providers. Any such charges shall be identified and agreed to by the complainant.
- (10) Money remittance providers shall make adequate provision to ensure that people with disabilities are able to access their complaint handling processes, including ensuring that such complainants can be easily represented by their

authorised representatives in order to make a complaint. In cases where such complainants specifically request assistance in lodging complaints, money remittance providers shall be obliged to provide reasonable assistance.

PART VI – INSPECTIONS, SUPERVISION AND AUDITORS

25. Inspection of a Money Remittance Provider

- (1) The Bank may inspect the books of accounts and other documents of a money remittance providers at any time in its premises in order to ensure compliance with the laws of Kenya, licensing terms and conditions, operating instructions and guidelines, and may institute an audit of the money remittance provider, call for an investigation of the money remittance provider, or impose a financial penalty on the money remittance provider.
- (2) The Bank may require an officer of the money remittance provider to produce to the Bank officer making an examination, and within a reasonable time, such books of accounts and any other documents in the, money remittance provider's custody or power, and furnish such statements or information relating to the affairs of the money remittance provider as may be required by the examining officer.
- (3) The Bank may, by notice in writing, require a money remittance provider to provide information to it, in such manner and form as may be specified by the Bank for purposes of assessing compliance with these Regulations.
- (4) The Bank may, at any time, enter any premises where a money remittance provider is carrying on business, or any premises where it is reasonably suspected that any business is being carried on in contravention of these regulations.
- (5) A money remittance provider which fails to produce books, accounts, records, documents, correspondence, statements or other specified information without any reason shall be issued with a fourteen (14) days notice to show cause why licence to carry on a money remittance business under these regulations should not be revoked.

(6) The Bank may require a money remittance provider to put in place remedial measures as the Bank may consider necessary after an inspection or investigation under these Regulations.

26. Auditors

- (1) Every money remittance provider shall, at its own expense, appoint an external auditor who shall be a member of good standing of the institute of Certified Public Accountants of Kenya to carry out an audit of the transactions in its business.
- (2) The Bank may require an auditor appointed under subsection (1) above:
- (a) To submit to the Bank such information as it may require in relation to the audit carried out by the auditor;
 - (b) To extend the scope of an audit of the business and affairs of the business and to submit a report to the Bank ;
 - (c) To carry out any examination or establish any procedure in any particular case;
 - (d) To submit a report to the Bank on any matter referred to in paragraph (a) or (b); and
 - (e) The money remittance provider shall be responsible for the remuneration of the auditor for the audit services.

PART VII - REMEDIAL MEASURES AND GENERAL PROVISIONS

27. Penalties

- (1) The Bank may levy monetary penalties for failure to comply with any of these regulations or non - compliance with any other directives of the Bank not exceeding five hundred thousand shillings.

- (2) The Bank, after reviewing all available information and determining the existence of the contravention of these regulations, shall notify the money remittance provider in writing advising on the findings and the following enforcement actions:
- (a) Issue a 14 days' notice of the Bank's intention to assess penalties for non-compliance; or
 - (b) Give a timeframe within which to rectify the violation after assessment of the gravity of the violation.
- (3) Where a notice to assess penalties is issued under sub-section (2)(a) above and upon expiry of the notice, or sooner if advised by the money remittance provider of the correction of the violation, the Bank shall instruct the money remittance provider, in writing, on the amount of monetary penalties assessed and the manner in which such monies shall be paid to the Bank.
- (4) In addition to the notification under sub-section (3) above, the money remittance provider shall be advised on a reasonable timeframe within which the violation shall be rectified.
- (5) The following shall constitute specific violations by a money remittance provider or a person of directions of the Bank which shall be subject to assessment of monetary penalties-
- (a) Failure by a money remittance provider to:-
 - (i) Comply with the Regulations, or such other guidelines or directions as the Bank may issue from time to time;
 - (ii) Furnish, at such time and in such manner as the Bank, may direct any information in an accurate and complete manner as the Bank may require to properly discharge its functions under the Act;
 - (iii) Remit funds to customers.

- (b) Conducting business in a manner, which in the view of the Bank is unsafe or unsound;
- (c) Failure to adhere to the reporting obligations as stipulated in Sections 44 to 46 of the Proceeds of Crime and Anti-Money Laundering Act 2009;
- (d) Tipping off a person suspected of money laundering that a disclosure has been made or otherwise prejudice an investigation.

28. Suspension and Revocation

- (1) The Bank may suspend the licence of a money remittance provider for such period as it may specify if the money remittance provider fails to comply with the provisions of these regulations or any conditions attached to the licence.
- (2) The Bank may revoke licence of a money remittance provider in cases where:
 - (a) without the written consent of the Bank , the money remittance provider fails to conduct money remittance business within twelve (12) months of the date of the issue of the licence;
 - (b) the money remittance provider is found to have ceased to conduct the operations authorized by the licence;
 - (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 provisions of these regulations;
 - (d) the money remittance provider fails to pay the required licence fees by the stipulated date;
 - (e) the beneficial owners of the money remittance provider, or the money remittance provider 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;
- (f) the money remittance provider has supplied the Bank with false or misleading information as part of its application for a licence, or during the course of operation.
 - (g) the money remittance provider is undercapitalized;
 - (h) the money remittance provider fails to pay a penalty as directed by the Bank within fourteen (14) days;
 - (i) the money remittance provider fails to rectify violations within the specified time frame or persistently being non-compliant with regulations.
 - (j) the money remittance provider submits in writing a request for the revocation of its licence.
 - (k) Where the Bank intends to revoke or suspend the licence of a money remittance provider, the Bank shall immediately inform the money remittance provider of its decision in writing.
- (3) Before revoking or suspending licence, the Bank shall give the money remittance provider not less than fourteen (14) days notice in writing and may consider any representations made in writing by the money remittance provider within that period.

29. GENERAL PROVISIONS

- (1) All foreign exchange transactions shall be subject to the requirements stipulated in the Guidelines on Foreign Exchange issued under the Central Bank of Kenya Act.

PART VIII – EFFECTIVE DATE

Effective Date: To Be Advised.

ENQUIRIES

Enquiries on any aspects of this guideline should be referred to:-

The Director,

Bank Supervision Department,

Central Bank of Kenya,

P.O. Box 60000-00200

NAIROBI

TEL: 2860000

email: fin@centralbank.go.ke

SCHEDULES

FIRST SCHEDULE

APPLICATION FOR OR RENEWAL OF LICENCE TO TRANSACT MONEY REMITTANCE BUSINESS - FORM / CBK /MRB/1

Application (Tick as appropriate):

Grant of new Licence	<input type="checkbox"/>	Renewal of Licence	<input type="checkbox"/>	Year	<input type="checkbox"/>
----------------------	--------------------------	--------------------	--------------------------	------	--------------------------

Please use Block (Capitals) Letters

1. Name of Money Remittance Provider.....
2. Physical and postal address of head office/ proposed new outlet:
 - (a) City/Town.....
 - (b) L.R.No.....
 - (c) Street.....
 - (d) Building.....
 - (e) P.O Box No.....
 - (f) Telephone Numbers.....
 - (g) E-mail Address.....
3. Date of incorporation
4. Certificate of incorporation No.....
5. Number and date of issue of previous licence
6. Details of existing outlets:

	Name of outlet	County	City/Town	Street	Building	Date opened
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						

7. Particulars of shareholders:

	Name	Nationality	Date of acquisition	Amount of shareholding	% of shareholding
1.					
2.					
3.					
4.					
5.					
6.					
7.					

8. Particulars of directors:

	Name	Nationality	Date of appointment	Level of education
1.				
2.				
3.				
4.				

5.				
6.				
7.				

9. Particulars of the officers in the order of seniority:

	Name	Designation	Nationality	Date of appointment
1.				
2.				
3.				
4.				
5.				
6.				
7.				

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 money remittance business in accordance with the provisions of the Central Bank of Kenya Act, CAP 491 and of any regulations, guidelines or directive as may from time to time be issued by the Central Bank of Kenya.

Name.....

Signature.....

Date.....

SECOND SCHEDULE

SHAREHOLDERS', DIRECTORS' AND SENIOR OFFICERS' FIT & PROPER FORM - FORM/CBK/MRB/2

Criteria for determining Professional and Moral suitability of persons in Control of a Money Remittance Business licensed under the Central Bank of Kenya Act, CAP 491

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. NAME OF MONEY REMITTANCE PROVIDER.....

2. PERSONAL INFORMATION

a) Surname:

.....

Other Names:

b) Proposed position:

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:

j) Previous Postal Addresses (if any):

.....

k) Physical address:

- l) Email Address:.....
- m) Telephone number:
 - a) Office.....
 - b) Mobile.....
- n) Educational qualifications:.....
- o) Professional qualifications and years obtained:

- p) Name(s) of your bankers during the last 5 years:

3. EMPLOYMENT/BUSINESS RECORD

Period	Name of Employer/Business and address	Positions held and 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	B	

A: Refers to date of sell, transfer, closure or surrender of shares

B: Refers to reasons for sell, transfer, 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, resignation or dismissal

D: Refers to reasons for retirement, resignation or dismissal

4.3 PROFESSIONAL BODIES

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

E: Refers to date of retirement, resignation or dismissal

F: Refers to reasons for retirement, resignation or dismissal

4.4 SOCIAL CLUBS

Name of club	Membership No.	Position held (if any)	Past club membership		Remarks
			G	H	

G: Refers to date of retirement, resignation or dismissal

H: Refers to reasons for retirement, resignation or dismissal

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

*Borrower to indicate both individually and the company where he holds more than 5% of the shareholding

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 licence 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 be 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 licence.

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:

THIRD SCHEDULE

SUSPICIOUS TRANSACTION REPORT - FORM / CBK /MRB/3

Suspicious Activities or Transactions Report (SATR)

To be submitted to: Director, Financial Reporting Centre

Always complete the entire report, attach additional pages if necessary to explain situation fully,

1. Tick appropriate box

- a. Initial Report b. Correct Report c. Supplemental Report

Part I: Information About Money remittance Provider Submitting This Report

2. Name of money remittance provider:

3. Address of Head Office.....

4. Address of outlet(s) where activity/transaction occurred.....

Part II: Information about Person or Entity Engaging In Suspicious Activity or Transaction

5. Surname (or Name of Entity).....

6. First Name.....

7. Middle/Name.....

8. Address.....

9. Occupation

10. Identity verified by: (Tick appropriate box)

a. Passport No..... Date and Place of issue.....

b. National ID Card No..... Date and Place of issue.....

c. Other[†]Serial No.....
Date and Place of issue.....

11. Is suspect affiliated with the money remittance provider? a. Yes[†] b. No If no, specify

c. Resigned d. Suspended e. Terminated

12. Date of Resignation, Suspension, Termination (DDMMYY)
...../...../.....

13. Admission/Confession: a. Yes b. No

PART III: Information about Suspicious Activity or Transaction

14. Date of suspicious activity or transaction (DDMMYY).....
...../...../.....

15. Transaction Number.....

16. Amount involved (Kshs. equivalent)
.....

17. General description of suspicion transaction:
.....
.....

(Attach copies of documentation if available)

18. Has suspicious activity or transaction had material impact on or otherwise adversely affected the financial soundness of the money remittance provider? a. Yes b. No

If yes, describe impact:
.....
.....

.....

19. Has the insurer of the money remittance provider been notified a. Yes † b. † No.
If yes, when & how?

20. Has any law enforcement authority been notified in any manner? If so, indicate the following:

a. Authority.....
.....

b. Specific person notified:

c. Date and place of notification.....

d. How notified
.....

e. Details provided:
.....

PART IV: Information about Officer Making the Report

21. Name:
.....
...

22. Position/Title in the MRT
.....

23. Signature
Date.....

FOURTH SCHEDULE

APPLICATION TO OPEN AN OUTLET TO FORM / CBK /MRB /4

The Central Bank of Kenya Act, CAP 491

- 1. Name of the Money remittance provider.....
- 2. Names/locations of existing outlets and dates of establishment.....
- 3. Proposed name of outlet.....
- 4.a) Name of the proposed location of outlet
- b) Postal address and telephone number(s)
- c) Physical address: - L.R.NO.....Building.....Street.....

Town.....

- 5. a) Officers of the proposed outlet.....
- b) Number and designation of non-management staff.....
- 6. Business hours
- 7. Is the new place of business:-
- a) Self-owned?Yes/No*
- If yes, cost of purchase or construction.....b) Leased? Yes/No*
- If yes, terms of lease.....
- 8. Proposed date of commencing operations
-

9. 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 money remittance 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.

Name.....

Signature.....

Date.....

FIFTH SCHEDULE

EXAMPLES OF TRANSACTIONS THAT MAY TRIGGER SUSPICION

- i. Customer is evasive or unwilling to provide information when requested, especially a customer who is sending or receiving an amount equivalent to US\$10,000 and above.
- ii. Transactions conducted are out of character with the usual conduct or profile of customers carrying out such transactions.
- iv. Customer using different identifications each time conducting a transaction.
- v. A group of customers trying to break up a large cash transaction into multiple small transactions.
- vii. The same customer conducting a few small transactions in a day or at different outlets/locations.
- viii. There are sudden or inconsistent changes in remittance sent/received transactions.
- ix. Remittances from different customers/jurisdiction being sent to the same customer.
- x. Customer frequently remitting money to non-cooperative countries/jurisdictions.
- xi. Customer frequently exchanging large amount of foreign currency but not exceeding the equivalent of US\$10,000 for each transaction.