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## BANKING CIRCULAR NO. 6 OF 2016

## TO CHIEF EXECUTIVES OF COMMERCIAL BANKS AND MORTGAGE FINANCE COMPANIES

## INCREASE OF CHARGES AND CONVERSION OF SAVINGS PRODUCTS TO TRANSACTIONAL PRODUCTS

Since the Banking (Amendment) Act, 2016 came into force on September 14, 2016, the Central Bank of Kenya (CBK) has received some applications from institutions seeking approval to increase charges on their products. CBK has also received a number of complaints from bank customers stating that their banks have imposed arbitrary charges or unilaterally converted their savings accounts into transactional accounts, and thereby losing the benefits that were accruing from those savings accounts.

CBK hereby draws your attention to the requirements of the following provisions of the law:

- i) Sections 16A (1) and 44 of the Banking Act and Section 31A of the Banking (Amendment) Act, 2016.
- ii) Regulation 2 and 7 of the Banking (Increase of Rate of Banking and Other Charges) Regulations, 2006.
- iii) Clauses 3.2.3(a)(i), 3.2.9(a), 3.4.4(i) & (ii) and 3.4.6(a)(iii) of the Prudential Guideline on Consumer Protection (CBK/PG/22).

These provisions provide for the following:

- 1) Savings, seven-day, call, and fixed deposit accounts should not attract any charge.
- 2) All products sought to be offered by any bank must be approved by CBK prior to roll out.
- Any proposed change to and/or in any feature of an approved product must be approved by CBK. Each product has its own unique features. It is these features that constitute the product, which must be approved by CBK. Approval by CBK of a product means approval of the features of the product as described by an institution to the CBK. Any change in the features of the product changes the product as earlier approved and therefore the changed product with less, more or otherwise varied feature(s) must be approved by CBK prior to roll out.

- 4) Any charges on any product must be approved by CBK.
- 5) Any increase in charges on any product must be approved by CBK.
- 6) Institutions are required to explain to their customers the reasons behind any decision to vary charges or terms & conditions of a contract.
- 7) Institutions are required to notify their customers within a reasonable time (preferably one month) prior to varying any charges.
- 8) Institutions must disclose to their customers the total cost of credit.

We draw your attention to the following:

- i) Any change of and/or in any feature of an approved product without the prior approval of CBK is illegal.
- ii) A savings, seven-day, call or fixed deposit account product which by law does not attract any charge cannot be converted to a transaction account (which may attract charges) without the prior consent of the customer and without the prior approval of CBK.
- iii) Institutions need to amend their respective contracts with their customers to incorporate the new legal requirements on disclosure of charges and terms.
- iv) Any changes which may have been effected by institutions without the requisite CBK approval should be reversed immediately.
- v) Any conversion of a savings, seven-day, call or fixed deposit account product to a transaction account which may have been effected by any institution should be reversed immediately.

CBK will follow up, on a case by case basis, with any institution which may have violated the law relating to approval of charges and products and appropriate action shall be taken against the affected institution.

In case of any query or clarification, please contact:

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