

FOREX BUREAU GUIDELINES 2011

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FORWARD

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

The Forex Bureau market has experienced rapid growth in the recent past, with the number of operating bureaus having increased to 126 as at December 2010. This rapid growth is attributed to increased demand in foreign exchange and money transfer business. It has therefore become necessary to review the Forex Bureau Guidelines in order to streamline the sector and address emerging challenges and opportunities.

The Revised Forex Bureau Guidelines therefore seek to streamline forex bureau's operations in line with the law, address the various challenges, enhance competition in the foreign exchange market and widen the scope of business activities that forex bureaus may undertake in light of current developments in the financial sector.

In addition, the guideline has been revised to take into account the enactment of the Proceeds of Crime and Anti-Money Laundering Act 2009 which came into operation on June 28, 2010.

The Revised Forex Bureau Guidelines 2011 supersedes the previous guidelines issued in 2007 and is effective from April 1, 2011.

1.0 INTRODUCTION

Forex bureaus (Forex Bureaus) were established and first licensed in January 1995 with the main objective of fostering competition and narrowing the exchange rate spread in the spot foreign exchange market. The forex bureaus are expected to engage in spot transactions and may facilitate domestic money transfer if appointed as agents. These guidelines are issued by the Central Bank of Kenya with the aim of ensuring that Forex bureaus conduct their business prudently and in compliance with the requirements of the Central Bank of Kenya Act. The guideline describes the nature of business Forex Bureaus are supposed to undertake and spells out the 'dos' and 'don'ts'. In addition, the guidelines provide for Forex Bureaus licensing requirements, operating conditions, inspection and regulatory enforcement actions by the Central Bank of Kenya.

Going forward, to facilitate a smooth and coordinated engagement with the industry, the Central Bank of Kenya will work closely with the Kenya Forex Bureau Association (KFBA) to address matters touching on the forex bureaus. The Central Bank of Kenya therefore expects the Kenya Forex Bureau Association (KFBA) to have a functional full time secretariat that will facilitate quick and effective engagement between the forex bureau sub-sector and the regulator particularly on matters relating to the implementation and review of these guidelines and other developments in the financial sector. It is important that all bureaus are members of the KFBA so as to ensure that any consultations made between the association and the regulator, are legitimate and binding on all the bureaus. A functional KFBA is expected to champion the interests of its members, promote and uphold professionalism, enhance ethical standards and contribute towards the quick resolution of any emerging issues.

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

2.0 INTERPRETATION

- “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 exchange bureau”, “forex bureau” or “bureau de change” means an entity licensed under The Central Bank of Kenya Act to transact foreign exchange business;
- “foreign exchange business” means the business of buying and selling of foreign currencies and any other business authorized by the Central Bank of Kenya;
- “foreign currency account” means an account in foreign currency maintained by a person with a licensed bank in Kenya;
- “foreign exchange” includes –
- (a) banknotes, coins or electronic units of payment in any currency other than Kenya shilling which are or have legal tender outside Kenya;
 - (b) financial instruments denominated in foreign currency; and
 - (c) any right to receive such bank notes or coins in respect of any balance at a financial institution located within or outside Kenya;
- “institution” for the purpose of these guidelines has the meaning respectively assigned to it under the Banking Act and Microfinance Act and includes any other entities offering financial services to the public that the Central Bank of Kenya may deem to be an institution;
- “money laundering” means the conversion or transfer of money, knowingly or through negligence with the intent of disguising or concealing its illegal origin;
- “officer” means a director, principal officer or an assistant principal officer of a forex bureau;
- “outlet” means a place of business of a forex bureau that has been approved by the Central Bank of Kenya;
- “spot exchange rate” for the purpose of these guidelines means the rate at which a foreign exchange transaction is concluded for immediate delivery;
- “spot transaction” for the purpose of these guidelines means the purchase and sale of currencies or the purchase and sale of any other instruments approved by the Central Bank of Kenya with immediate delivery against an agreed price;
- “undercapitalized” means the core capital of the bureau being below the statutory minimum required under these guidelines.

3.0 LICENSING OF A FOREX BUREAU

3.1 Conditions for Licensing

- (1) No person shall transact foreign exchange business except an authorized dealer with a valid licence issued by the Central Bank of Kenya.
- (2) A person who wishes to transact business of foreign exchange bureau in Kenya shall;
 - (a) seek the consent of the Central Bank of Kenya to use the words “Forex Bureau”, “Foreign Exchange Bureau” or “Bureau De Change” as part of its business name;
 - (b) incorporate a limited liability company whose business name incorporates the words “Forex Bureau”, “Foreign Exchange Bureau” or “Bureau De Change” and has the business of conducting foreign exchange transactions as its main objective;
 - (c) have a minimum core capital of not less than US\$60,000 or its equivalent in Kenya shillings before commencement of operations which should be maintained at all times;
 - (d) have sufficient funds to meet the requirement of non-interest bearing deposit of US\$30,000 by the Central Bank of Kenya;
 - (e) have a fixed and identifiable place of business that is accessible to the public and suitable in all respects for the business of a forex bureau as may be determined by the Central Bank of Kenya;
 - (f) not have an interest directly or indirectly as a shareholder or an officer in any other forex bureau licensed by the Central Bank of Kenya;
- (3) The Central Bank of Kenya shall consider the following factors in making a decision to grant a licence;
 - (a) the financial condition and history of the applicant;
 - (b) the nature of any other business of the applicant if it has the potential to affect the business of the forex bureau;
 - (c) the competence and integrity of the applicant’s proposed management;
 - (d) the adequacy of the applicant’s capital structure, earning prospects, business and financial plans;
 - (e) whether the public interest will be served by the granting of the licence to the applicant;
 - (f) the history, character and integrity of the applicant’s shareholders and proposed directors.

3.2 Application and Granting of a New Licence

- (1) An application for a forex bureau licence shall be submitted to the Director, Bank Supervision Department, Central Bank of Kenya in a duly completed FORM/CBK/FXD/1 accompanied by;
 - (a) non-refundable application fee of Ksh.20,000 (bankers cheque payable to the Central Bank of Kenya);
 - (b) a certified copy of a statement of affairs of the applicant;
 - (c) a certified copy of the applicant's memorandum and articles of association;
 - (d) a certified copy of the applicant's certificate of incorporation;
 - (e) a feasibility study;
 - (f) bank statements of the bureau's shareholders and directors for a period of six months prior to the date of application;
 - (g) duly completed fit and proper forms for the shareholders, directors and principal officers of the bureau;
 - (h) credit reports from a credit reference bureau for the shareholders, directors and the principal officers of the bureau;
 - (i) 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;
 - (j) a declaration by the applicant that none of its directors and/or shareholders holds a similar position or role in any other forex bureau;
 - (k) an undertaking by the applicant to comply with the provisions of the Central Bank of Kenya Act and instructions issued by the Central Bank of Kenya pursuant to these guidelines or pursuant to any other regulations or guidelines issued by the Central Bank of Kenya; and
- (1) Any other information as may be required by the Central Bank of Kenya.
- (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 forex bureau;
 - (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 of or malpractices by persons engaged in provision of financial services;

- (c) being a past director or senior officer of an institution licensed by the Central 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 Central Bank of Kenya, were fraudulent, prejudicial or otherwise improper (whether lawful or not) or which otherwise discredited his methods of conducting business;
 - (e) participation or association with any other business practices as would, or otherwise conducted himself 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) any other factors as may be determined by the Central Bank of Kenya.
- (3) The Central Bank of Kenya shall only issue a forex bureau licence if the applicant meets the requirements set out in the Central Bank of Kenya Act and these guidelines and shall within 90 days of the date of lodging the application;
- (a) request for additional information for purposes of processing the application;
 - (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;
 - i) pay the licence fee of Ksh.65,000;
 - ii) transfer the non-interest bearing deposit of US\$30,000 to the Central Bank; and
 - iii) invite the Central Bank of Kenya to inspect the bureau's premises prior to commencement of business.

Provided that the letter of intent issued under this sub-section is valid for a period of six months from the date of issue.

- (c) issue a licence to the applicant upon fulfillment of all the requirements provided under subsection 3(b) above;
 - (d) inform the applicant in writing that the application has been declined and advise the unsuccessful applicant that an appeal to the Central Bank for review of the decision to decline may be lodged within 30 days from the date thereof.
- (4) Where a forex bureau is granted a licence by the Central Bank of Kenya;
- (a) there shall be no refund of any licence fee paid to the Central Bank of Kenya in the event that a licence is cancelled or revoked or a forex bureau 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 Central Bank of Kenya may in conformity with the guidelines and the Central Bank of Kenya Act, add, vary or substitute any condition to the licence;
 - (d) the licence granted or renewed 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 licences issued 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 bureau fails to conduct foreign exchange business within six (6) months of the date of issue of the licence without the written consent of the Central Bank of Kenya or at any other time as provided under section 6.2 of these guidelines;
 - (g) the Central Bank of Kenya shall refund the non-interest bearing deposit net of penalties and charges owing to the Central Bank of Kenya in the event of licence revocation or voluntary winding up. Refunds under this sub section shall be processed within 30 days of receipt of the request and fulfillment of all requirements.
- (5) A forex bureau licence shall be granted on condition that a forex bureau shall not engage in any business operation other than as authorized under the Central Bank of Kenya Act and these guidelines.

3.3 Renewal of Licence

- (1) An application for renewal of licence of a forex bureau shall be submitted to the Central Bank of Kenya in FORM/CBK/FXD/1 at least two months before the expiry of the licence.
- (2) The Central Bank of Kenya may renew a licence where;
 - (a) it is satisfied that the forex bureau has been operating in conformity with these guidelines and the Central Bank of Kenya Act;
 - (b) the forex bureau has paid the prescribed licence fee and all outstanding penalties imposed or levied on the forex bureau under the guidelines and the Central Bank of Kenya Act, if any;
 - (c) the forex bureau 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 forex bureau, 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 Central Bank of Kenya may from time to time determine;
 - (e) the forex bureau is a member of Kenya Forex Bureau Association (KFBA) and has submitted a copy of its current membership certificate.

- (3) Where a forex bureau 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.
- (4) Where a forex bureau fails to fulfill any of the conditions set by the Central Bank of Kenya for the purpose of renewal of its licence within ninety (90) days from the date of expiry of the licence, the licence shall not be renewed and the Central Bank of Kenya shall proceed to revoke it.

3.4 Prescribed Fees

- (1) The prescribed fees payable by forex bureaus in respect of various applications shall be as set out in the table below:

	Type	Fees
1.	Annual licence fee per outlet	Ksh.65,000
2.	Application fee for a new licence	Ksh.20,000
3.	Application fee for a new outlet	Ksh.10,000

- (2) Fees payable under subsection (1) above shall be paid by bankers cheque payable to the Central Bank of Kenya or by any other means prescribed by the Central Bank of Kenya.
- (3) The prescribed fees in subsection (1) above may be reviewed at the discretion of the Central Bank of Kenya.

4.0 OPERATIONS OF A FOREX BUREAU

4.1 Authorized Business Activities

- (1) Forex bureaus shall deal in spot foreign currency transactions involving cash and other instruments approved by the Central Bank.
- (2) Forex bureaus may be allowed to conduct money transfer as agents of mobile phone companies and as sub-agents of international money transfer agencies such as Western Union and Money Gram subject to prior approval of the Central Bank of Kenya and shall;
 - (a) submit to the Central Bank of Kenya a signed copy of the contract/agreement between the bureau and the telecoms company or the agent;
 - (b) submit any other additional information as may be required by the Central Bank of Kenya;
 - (c) conduct business in compliance with both the applicable laws and regulations of the Agency and these guidelines.

Provided that where a forex bureau conducts international money transfer business, such business shall be conducted through a bank.

- (3) Forex bureaus may transact telegraphic transfers through a bank in amounts not exceeding an equivalent of US\$100,000 per customer per day subject to conditions that the Central Bank of Kenya may prescribe and shall;
 - (a) not allow or process transactions that are or appear to have been deliberately split for whatever reason;
 - (b) carry out customer due diligence as required under section 4.10(4) of these guidelines;
 - (c) obtain and maintain records as required under section 4.10(5) of these guidelines.
- (4) Forex bureaus may, subject to compliance with the provisions of sections 4.10(4) & (5) of these guidelines;
 - (a) sell foreign currency drafts to their customers;
 - (b) transact in travelers cheques;
 - (c) purchase foreign currency drafts from customers that are not in excess of US\$1,000 or its equivalent in any other currency;
 - (d) transact any other business as may be approved by the Central Bank of Kenya.

4.2 Unauthorised Business Activities

- (1) Forex bureaus shall not be permitted to;
 - (a) act as authorized dealers in gold;
 - (b) engage in lending money;
 - (c) maintain current accounts on behalf of customers;
 - (d) establish letters of credit;
 - (e) deal in the forward market;
 - (f) act as custodians of foreign currency on behalf of customers;
 - (g) act either as payment or collection agents for or on behalf of customers;
 - (h) engage third parties for safe keeping of funds except authorized banks;
 - (i) engage agents for collection of funds on their behalf;
 - (j) conduct approved business via the internet;
 - (k) transact in third party cheques;
 - (l) purchase foreign currency drafts from customers that are in excess of US\$1,000 or its equivalent in any other currency.

- (2) Forex bureaus shall not introduce new products that are not authorized under section 4.1 without prior consultation and written approval by the Central Bank of Kenya.

- (3) Forex bureaus 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 Central Bank of Kenya.

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

4.3 Ownership and Management

- (1) Directors, principal officers and assistant principal officers of forex bureaus shall be vetted and approved by the Central Bank of Kenya prior to assuming office.

- (2) Forex bureaus shall appoint;
 - (a) at least two directors;
 - (b) a principal officer and an assistant principal officer responsible for all the operations of the bureau;
and
 - (c) an assistant principal officer responsible for each of its outlets.

- (3) The nomination of officers under subsection (1) above shall be forwarded to the Central Bank of Kenya accompanied by the following documents;
 - (a) duly completed fit and proper form, FORM/CBK/FXD/2;
 - (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.

- (4) The principal officer and his alternate approved by the Central Bank of Kenya shall be full time employees of the forex bureau.

- (5) The Directors, Principal and Assistant Principal Officers should have attained at least an ordinary level certificate of education or its equivalent and have adequate knowledge of forex bureau operations, Forex Bureau Guidelines, the Central Bank of Kenya Act, the Proceeds of Crime and the Anti-Money Laundering Act, 2009 and any other relevant legislation;

- (6) Forex bureaus shall ensure that all staff are adequately trained in the operations of the forex bureau business and on the regulatory requirements.

- (7) No person shall become a shareholder of a forex bureau unless such a person is deemed 'fit and proper' and approved by the Central Bank of Kenya.

- (8) No person shall become a shareholder or an officer in more than one forex bureau in Kenya.

- (9) No shares of a forex bureau shall be transferred without prior written approval of the Central Bank of Kenya.
- (10) An application for transfer of shares in a forex bureau shall be submitted to the Central Bank of Kenya accompanied by a duly completed FORM/CBK/FXD/3 and any other documents as may be required by the Central Bank.
- (11) A forex bureau shall not change its shareholders, directors and principal officers without prior written approval of the Central Bank of Kenya.
- (12) The board of directors and the principal officers of a forex bureau shall develop appropriate policies and procedures to guide all areas of its operations including accounting, human resources and information technology.

4.4 Disqualification of Officers

- (1) The Central Bank of Kenya may disqualify approved shareholders, directors or principal officers of a forex bureau who;
 - (a) fail to adhere to the Forex Bureau Guidelines, Central Bank of Kenya Act or any other directives issued by the Central Bank of Kenya;
 - (b) fail to meet vetting requirements on an on-going basis;
 - (c) have non-performing credit facilities in any institution.

4.5 Places of Business

- (1) A forex bureau may be permitted to open outlets. Where a forex bureau has more than one outlet, it shall designate one of the outlets as its head office.
- (2) A forex bureau shall seek prior written approval from the Central Bank of Kenya before opening a new outlet by submitting an application accompanied by a duly completed FORM CBK/FXD/4, the prescribed application fees and other documents as may be determined by the Central Bank of Kenya.

- (3) An approval to operate an outlet may be granted by the Central Bank of Kenya upon fulfillment of all requirements including inspection of the business premises and payment of the prescribed fees.
- (4) A forex bureau shall notify the Central Bank of Kenya the business hours for each of its outlets.
- (5) No forex bureau shall change its business hours without notifying the Central Bank of Kenya.
- (6) The approved business hours should be displayed prominently at each of the bureau's business premises.
- (7) A forex bureau shall display prominently at each of its business premises;
 - (a) the forex bureau licence;
 - (b) the foreign currency buying and selling rates;
 - (c) a notice informing the customers that they are entitled to be issued with a receipt for any purchase or sale of foreign currency made by them; and
 - (d) a notice to the effect that the bureau is not allowed to take deposits.
- (8) A forex bureau shall not relocate its business from approved premises without prior written approval of the Central Bank of Kenya.
- (9) A forex bureau shall ensure that it seeks prior written approval of the Central Bank of Kenya for temporary closure of any of its places of business.
- (10) A forex bureau 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 Central Bank of Kenya.
- (11) The business premises of a forex bureau should be accessible to the general public and the Central Bank of Kenya.
- (12) The Central Bank of Kenya shall before granting any approval under these guidelines in respect of opening an outlet, satisfy itself that:-
 - a) the bureau is financially sound;

- b) the management of the bureau has been certified as fit and proper by the Central Bank of Kenya;
 - c) the capital structure and earning prospects, business and financial plans of the bureau 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 bureau;
 - f) the bureau has the capacity to process information of all its outlets on-line; and
 - g) the bureau is fully compliant with these guidelines and the Central Bank of Kenya Act.
- (13) The Central Bank of Kenya may, in granting approval under sub section (1), impose such other conditions as it deems fit.
- (14) A forex bureau facing operational challenges, disclosure of which shall be made to the Central Bank of Kenya, will be required to seek prior written approval from the Central Bank of Kenya to close or suspend the operations of the bureau temporarily.

4.6 Equipment

A forex bureau shall have the necessary equipment to;

- a) detect counterfeit currency;
- b) determine the appropriate rates of exchange;
- c) communicate effectively;
- d) process data and generate reports that meet regulatory requirements.

4.7 Bank Accounts

- (1) A forex bureau shall maintain foreign currency accounts in a maximum of two authorized banks. However, in cases where a bureau has established an outlet in an area not served by the authorized bank(s), the outlet may open foreign currency accounts in any other two banks in the area.
- (2) A forex bureau shall at all times maintain a minimum balance equivalent to US \$4,000 in cash held either in its premises or its bank accounts and shall produce proof of this balance to the Central Bank of Kenya on demand;

- (3) A forex bureau shall not open an account in a foreign country.
- (4) A forex bureau shall not use the personal bank accounts of its directors, shareholders, principal officers, employees or any other individual for purposes of transacting forex bureau business.

4.8 Records of Transactions and Documentations

- (1) A forex bureau 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 Central Bank of Kenya.
- (2) A forex bureau 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;
 - (d) the transaction number;
 - (e) the nature, time and date of the transaction;
 - (f) a copy of documentary evidence used to verify the identity of the customer;
 - (g) name and address of the forex bureau and name of the employee who served the customer; and
 - (h) a brief statement on source or purpose of the foreign currency.
- (3) All transactions generated by a forex bureau in the course of its business activities must be posted to its books of accounts.
- (4) A forex bureau shall maintain the following records of its foreign exchange transactions;
 - (a) a record of all transactions as provided under section 4.10(5) of these guidelines;
 - (b) a daily summary and balances list;
 - (c) vault list for stock of currencies;
 - (d) fixed assets list; and
 - (e) any other records applicable to the bureau or as may be specified by the Central Bank of Kenya.
- (5) A forex bureau shall keep all records up to date, cross-checked and verified on a daily basis.

- (6) A forex bureau shall maintain proper records of all transactions. Such records shall, *inter alia*, reflect the following information;
- (a) the serial numbers of source documents such as receipts, cheques, invoices etc;
 - (b) the date of the purchase or sale of foreign exchange;
 - (c) the foreign exchange amount purchased or sold;
 - (d) the rate of exchange;
 - (e) the Kenya shillings amount paid or received from the customer;
 - (f) the nature of transaction; and
 - (g) the identity of the customer.
- (7) A forex bureau shall maintain such books of accounts and records as to enable the timely preparation of audited annual financial statements and generation of reports.

4.9 Submissions to Central Bank of Kenya

- (1) A forex bureau shall submit the following returns to the Central Bank of Kenya on-line or as directed in the prescribed format;
- (a) the indicative closing Kenya shillings exchange rates every morning before 9.30 a.m. or as otherwise directed by the Central Bank of Kenya;
 - (b) daily returns of its foreign exchange transactions (inflows and outflows equivalent to or above US\$10,000 including customers who transact repeat transactions in a day amounting to US\$10,000);
 - (c) weekly returns of foreign exchange transactions not later than 3.00 p.m. on the first working day of the following week;
 - (d) quarterly balance sheet and profit and loss account within thirty days after the end of every quarter;
 - (e) audited balance sheet and profit and loss accounts within three months after the end of the financial year;
 - (f) any other return as may be prescribed by the Central Bank of Kenya from time to time.
- (2) The financial year for all forex bureaus shall be January 1 to December 31.

- (3) Forex bureaus shall submit to the Central Bank of Kenya, a report of any suspicious transactions or 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/FXD/5.
- (4) The head office of each bureau is required to collate the transactions of its outlets and submit to the Central Bank the daily, weekly and quarterly returns accordingly.
- (5) The forex bureau should ensure that accurate returns are submitted to the Central Bank of Kenya as required.

4.10 Anti-Money Laundering Guideline

- (1) Money Laundering is the conversion or transfer of money, knowingly or through negligence with the intent of disguising or concealing their illegal origin. Money laundering enables criminals, including tax evaders, terrorists and drug traffickers to conceal or transfer the proceeds of unlawful activities and to finance future illegal or legal activities.

(2) Stages of Money Laundering

Money laundering process is accomplished in three stages as follows:

- (a) Placement – the physical disposal of the initial proceeds derived from illegal activity.
- (b) Layering – separating illicit proceeds from their source by creating complex layers of financial transactions designed to disguise the audit trail and provide anonymity.
- (c) Integration – the provision of apparent legitimacy to criminally derived wealth. If the layering process has succeeded, an integration scheme places the laundered proceeds back into the economy in such a way that they re-enter the financial system appearing as normal business funds. The three basic steps may occur as separate or distinct phases. Alternatively, they may occur simultaneously or, more commonly, they may overlap. How the basic steps are used depends on the available laundering mechanisms and the requirements of the criminal organizations.

(3) Reporting Obligations

The board of directors and management of forex bureaus shall take all necessary measures to ensure they apply appropriate policies and procedures to detect, prevent, report or otherwise deal with incidences of money laundering,

(4) Customer Due Diligence

- (a) The Board of Directors of forex bureaus 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) Customers due diligence measures are to be applied **prior** to the commencement of a transaction and appropriate documentation used to establish a customer's identity.
- (c) The following types of information shall be the minimum acceptable for determining the true identity of customers wishing to make transactions:
 - i) In the case of an individual;
 - a birth certificate;
 - a national identity card;
 - a driver's licence;
 - a passport; or
 - any other official means of identification as may be prescribed; and
 - ii) In the case of a body corporate;
 - 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);
 - the Act establishing the body corporate (in case of a state corporation);
 - 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
 - or any other item as may be prescribed;
 - iii) in the case of a government department, a letter from the accounting officer.
- (d) In instances where it appears that a customer is acting on behalf of another person, forex bureaus will be required to take reasonable measures to establish the true identity of the person or 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.

- (e) Forex bureaus should ensure that their customers do not use fictitious names when conducting transactions.

(5) Record Keeping

Forex bureaus should obtain and maintain records of **all** transactions conducted in the course of business. All records of transactions should be stored for a minimum period of seven years from the date of the transaction. The records should at a minimum include the following details;

- (a) a copy of the documentary evidence used to verify the identity of the customer;
- (b) the full names of the customer;
- (c) the address of the customer;
- (d) the principal business or activity of the customer conducting the transaction;
- (e) The nature, time and date of the transaction;
- (f) the type and the amount of currency;
- (g) source of funds;
- (h) the account/transaction number; and
- (i) the name and address of the foreign exchange bureau and the name of the employee who prepared the record.

(6) Training

The board of directors and management of forex bureaus 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 Forex Bureau Guidelines and the Proceeds of Crime and Anti-Money Laundering Act 2009.

(7) Suspicious Transactions

Suspicious Transaction Reporting is a way of alerting authorities to the possibility that a particular transaction could possibly involve money laundering or terrorist financing and should, therefore be investigated by the concerned authorities. In most cases, the forex bureau reporting the transaction will not have evidence that the suspicious transaction is proceeds of crime and is also less likely to know what specific crime, if any, might be involved. The bureau will simply be aware that the transaction is unusual and not consistent with the normal type of transactions and in such situations, the bureau should submit a suspicious transaction report and leave it to the authorities to further investigate the matter.

Section 44 (1) of the Proceeds of Crime and Anti-Money Laundering Act 2009 requires all reporting institutions to monitor on an ongoing basis all complex, unusual, suspicious, large or other transaction whether completed or not, and to pay attention to all unusual patterns of transactions, to insignificant but periodic patterns of transactions that have no apparent economic or lawful purpose.

Section 44 (2) of The Proceeds of Crime and Anti-Money Laundering Act, 2009 requires all reporting institutions to report suspicious transactions to the Financial Reporting Centre. Pending the establishment of the Financial Reporting Centre and issuance of guidance on submission of Suspicious Transaction Reports to the Centre under The Proceeds of Crime and Anti-Money Laundering Act 2009 or as otherwise directed by the Central Bank of Kenya, foreign exchange bureaus licensed under the Central Bank of Kenya Act shall, in the meantime, submit Suspicious Transaction Reports to the Central Bank of Kenya, in the prescribed FORM/CBK/FXD/5.

(8) Tipping Off

“Tipping off” is a warning or hint given confidentially and based on inside information. After a Suspicious Transaction Report (STR) has been filed with the authorities, one should not notify the customer of the filing of the report. It is a criminal offence under the Proceeds of Crime and Anti-Money Laundering Act, 2009 to do or say anything that might ‘tip off’ another person that a disclosure has been made, or otherwise prejudice an investigation.

(9) Internal Controls

The board of directors and management of forex bureaus should establish and maintain internal procedures, policies, and controls to prevent money laundering. The procedures should establish a mechanism for reporting suspicious transactions by designating a person as the money laundering reporting officer for the purpose of reporting suspicious transactions and cash transaction reports and ensuring compliance with the provisions of the Proceeds of Crime and Anti-Money Laundering Act 2009.

Forex bureaus should note that 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 constitutes an offence under that Act and a breach of these guidelines.

5.0 INSPECTIONS AND SUPERVISION

5.1 Inspection of a Forex Bureau

- (a) In accordance with the Central Bank of Kenya Act, the Central Bank of Kenya may inspect the registers, books of accounts and other documents of a foreign exchange bureau at any time in its premises in order to ensure compliance with the laws of Kenya, with licensing terms and conditions, and with operating instructions and guidelines, and may institute an audit of the bureau, call for an investigation of the bureau, or impose a financial penalty on the bureau.
- (b) It is the duty of every officer of a foreign exchange bureau to produce to the officer making an examination, and within a reasonable time, such books of accounts and any other documents in the foreign exchange bureau's custody or power, and furnish such statements or information relating to the affairs of the foreign exchange bureau as may be required by the examining officer.
- (c) A forex bureau shall maintain a sound management information system that will facilitate collection of accurate and up to date statistical data and information and provide audit trails for use by auditors and the Central Bank of Kenya examiners.
- (d) The Central Bank of Kenya may, at any time, enter any premises where a bureau is carrying on business, or any premises where it is reasonably suspected that any business is being carried on in contravention of these guidelines.
- (e) A forex bureau 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 its licence to carry on foreign exchange business under the Central Bank of Kenya Act should not be revoked.
- (f) The Central Bank of Kenya may require a bureau to put in place remedial measures as the Central bank of Kenya may consider necessary after an inspection or investigation under these guidelines.

- (g) The Central Bank of Kenya may, by notice in writing, require a bureau to provide information to the Central Bank of Kenya, in such manner and form as may be specified by the Central Bank of Kenya for purposes of assessing compliance with these guidelines.

5.2 Verification of counterfeits

- (a) It is the duty of the bureau to cross check and satisfy itself that notes exchanged are legal tender and a transaction is deemed to be concluded at the counter.
- (b) A forex bureau shall seize all counterfeit notes and other instruments presented by a customer and the customer shall be issued with a receipt indicating the serial number of the counterfeit notes and the counterfeit notes or instruments shall be submitted to the Director in charge of currency operations at the Central Bank of Kenya and under no circumstances should the forged items be returned to the customer.
- (c) Any forex bureau which receives counterfeits shall contact law enforcement agents giving full details of the counterfeits including serial numbers of the notes and customer's names, copy of identity card and address.

5.3 Auditors

- (a) Every forex bureau 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 annual audit of the transactions in its licenced business.
- (b) The Central Bank of Kenya may require an auditor appointed under subsection (a) above;
 - i) to submit to the Central Bank of Kenya such information as it may require in relation to the audit carried out by the auditor;
 - ii) to extend the scope of an audit of the business and affairs of the bureau and to submit a report to the Central Bank of Kenya;
 - iii) to carry out any examination or establish any procedure in any particular case; or
 - iv) to submit a report to the Central Bank of Kenya on any matter referred to in paragraphs (a) and (b).
- (c) The bureau shall be responsible for the remuneration of the auditor for the services.

6.0 REMEDIAL MEASURES

6.1 Penalties

- (a) Where any foreign exchange bureau contravenes any of the provisions of these guidelines, penalties shall be levied in accordance with the provisions of the Central Bank of Kenya Act (Cap 491) and the Central Bank of Kenya (Foreign Exchange Bureau) (Penalties) Regulations, 2009.
- (b) Monetary penalties on non-compliance with other directions not covered under the Regulations may be levied by the Central Bank of Kenya.
- (c) The Central Bank of Kenya, after reviewing all available information and determining the existence of the contravention of Central Bank of Kenya Act or Forex Bureaus Guidelines, shall notify the foreign exchange bureau in writing advising it of the findings and the decision to assess the penalties or give it time to rectify the violation after assessment of the gravity of the violation.
- (d) A notification under subsection (c) above shall advise the foreign exchange bureau of a reasonable timeframe within which the violation shall be rectified.
- (e) Following the notification and expiration of the timeframe designated in subsections (c) and (d) above, or sooner if advised by the foreign exchange bureau of the correction of the violation, the Central Bank shall instruct the foreign exchange bureau, in writing, on the amount of monetary penalties assessed and the manner in which such monies shall be paid to the Central Bank of Kenya.

6.2 Suspension and Revocation

- (1) The Central Bank of Kenya may suspend the licence of a foreign exchange bureau for such period as it may specify if the bureau fails to comply with the provisions of the Central Bank of Kenya Act or any conditions attached to a licence.
- (2) The Central Bank of Kenya may revoke the licence of a foreign exchange bureau in cases where;
 - (a) without the written consent of the Central Bank of Kenya, the bureau fails to conduct foreign exchange transactions within six (6) months of the date of the issue of the licence;

- (b) the bureau 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 guidelines;
 - (d) the bureau fails to pay the required licence fees by the stipulated date;
 - (e) the beneficial owners of the bureau, or the bureau itself, is convicted by any court of competent jurisdiction, in Kenya or elsewhere, of an offense related to the use or laundering, in any manner, of illegal proceeds, or is an affiliate or subsidiary of a company that has been so convicted, and such conviction is not overturned on appeal;
 - (f) the bureau has supplied the Central Bank of Kenya with false or misleading information as part of its application for a licence, or during the course of operation.
 - (g) the bureau is undercapitalized;
 - (h) the bureau fails to pay a penalty as directed by the Central Bank of Kenya within fourteen (14) days;
 - (i) the bureau fails to rectify violations within the specified time frame or persistently being non-compliant with the Forex Bureau Guidelines.
- (3) Where the Central Bank of Kenya intends to revoke or suspend the licence of a forex bureau, the Central Bank shall immediately inform the bureau of its decision in writing.
- (4) Before revoking or suspending a licence, the Central Bank of Kenya shall give an authorized dealer not less than fourteen (14) days notice in writing and may consider any representations made in writing by the authorized dealer within that period.

7.0 TRANSITIONAL PROVISIONS

- (a) A forex bureau licensed by the Central Bank of Kenya that is currently operating foreign exchange business shall be required to comply with the revised guidelines immediately upon coming into force but is required to comply with the following conditions by June 30, 2012:-
- i) increase core capital to a minimum of US\$60,000 or equivalent;
 - ii) increase non-interest bearing deposit at the Central Bank of Kenya to US\$30,000;
 - iii) ensure none of its shareholders and directors has a direct or indirect interest in more than one forex bureau as a shareholder or an officer;
- (b) A forex bureau that shall not comply with the conditions set out in section 7.0(a) above without the consent of the Central Bank of Kenya will have its licence revoked.

APPLICATION FOR OR RENEWAL OF LICENCE TO TRANSACT FOREIGN EXCHANGE BUSINESS - FORM / CBK /FXD /1

The Central Bank of Kenya Act
(Cap. 491)

Application (Tick as appropriate):

Grant of new licence		Renewal of licence		Year	
----------------------	--	--------------------	--	------	--

Please use Block (Capitals) Letters

1. Name of bureau.....

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 license.....

6. Details of existing licensed 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 foreign exchange business in accordance with the provisions of the Central Bank of Kenya Act and of any regulations, guidelines or directive as may from time to time be issued by the Central Bank of Kenya.

Name.....

Signature.....

Date.....

Note:

1. Please submit the copies of -
 - a) certificate of incorporation;
 - b) valid forex bureau license
 - c) fit and proper forms for new shareholders, directors and all the chief foreign exchange operations officers;
 - d) certified passport size photographs of all shareholders and officers;
 - e) credentials and curriculum vitae of all officers; and
 - f) credit reports of all officers from a credit reference bureau.
2. The bureau may be required to present any officer to the Central Bank of Kenya for interview where considered necessary.
3. All information provided in this form shall be treated as confidential.

DIRECTORS' AND SENIOR OFFICERS' FIT & PROPER FORM – FORM/CBK/FXD/2

Criteria for determining Professional and Moral suitability of persons in Control of a Forex Bureau licensed under the Central Bank of Kenya Act.

NB:

- (a) Read the declaration on Section 6 below before completing this form.
- (b) In case the space provided is inadequate, use additional paper.

1. NAME OF BUREAU:

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) Educational qualifications:

m) Professional qualifications and years obtained:
.....

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

o) Proposed management position in the bureau:

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 authorization revoked, give particulars.

.....

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

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

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

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

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

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

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

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

.....
.....

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

.....
.....

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

.....
.....
.....

5.12 Is there any additional information which you consider relevant for the consideration of your suitability or otherwise for the position(s) held/to 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:

SHAREHOLDERS' FIT AND PROPER FORM – FORM/CBK/FXD/3

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

- NB: (a) Read the declaration on Section 6 below before completing this form.
 (b) In case the space provided is inadequate, use additional paper.

1. NAME OF BUREAU:

2. PERSONAL INFORMATION

- a) Surname:
- Other Names:
- b) Previous Names (if any) by which you have been known:
- c) Year and place of birth:
- d) Nationality and how acquired:
- e) Personal Identification Number:
- f) Identification Card number and date of issue:
- g) Passport number and date of issue:
- h) Postal Address:
- i) Previous Postal address (if any):
- j) Physical address:
- k) Educational qualifications:
- l) Professional qualifications and years obtained (if any):
- m) 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 of shares

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 private company where he holds more than 5% of the shareholding

4.6 SOURCES OF FUNDS

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

- a).....
- b).....
- c).....

5. QUESTIONNAIRE

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

.....
.....

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

.....
.....

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

.....
.....

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

.....
.....

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

.....
.....

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

.....
.....

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

.....

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

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

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

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

5.12 Is there any additional information which you consider relevant for the consideration of your suitability or otherwise for the position(s) held/to 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:

**APPLICATION TO OPEN AN OUTLET TO TRANSACT FOREIGN EXCHANGE BUSINESS -
FORM / CBK /FXD /4**

The Central Bank of Kenya Act (Cap. 491)

1. Name of the Forex Bureau
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 foreign exchange business in accordance with the provisions of the Central Bank of Kenya Act and of any regulations, guidelines or directive as may from time to time be issued by the Central Bank of Kenya.
- Name.....
- Signature.....
- Date.....

SUSPICIOUS TRANSACTION REPORT - FORM / CBK /FXD /5

Suspicious Activities or Transactions Report (SATR)

To be submitted to: Director, Bank Supervision Department, Central Bank of Kenya

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 Forex Bureau Submitting This Report

- 2. Name of Forex Bureau:
.....
- 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 Passport No.....
Date and Place of issue.....
 - b. National ID card National Identity Card No.....
Date and Place of issue.....
 - c. Other Serial No.....
Date and Place of issue.....
11. Is suspect affiliated with the forex bureau? 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 bureau? a. Yes b. No
If yes, describe impact:

.....
.....
.....
.....

19. Has the insurer of the foreign exchange bureau 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 forex bureau
- 23. Signature Date.....

PREMISES CHECKLIST - FORM / CBK /FXD /6

		ITEMS	YES	NO	COMMENTS
1		TITLE DEED/LEASE AGREEMENT			
	(a)	<u>Title Deed</u>			
		Is the bureau registered as owner of the premises? Obtain a copy of the title deed.			
	(b)	<u>Lease Agreement</u>			
		Obtain a copy of the lease agreement.			
		Is the lease signed by both parties?			
		Is the lease registered?			
		What is the duration of the lease and is it long enough to allow for economical use of the permanent improvements?			
		Is the landlord's approval for interior design/alteration obtained and other conditions satisfied?			
2		APPROVAL BY RELEVANT AUTHORITIES			
		Have the following approvals been obtained where necessary:- - Local Authority - Security firm - regarding physical, security of staff premises and assets. - Approval by K.P. & L Co. for electrical wiring of the premises.			
3		SUITABILITY OF PREMISES			
		Are the premises suitable for the forex bureau business?			
4		STAFF OPERATING AREA			
		Is space allowed for each individual employee equal to or more than 350 cubic feet?			
		Are sufficient and suitable sanitary conveniences for employees provided and kept clean?			
5		VENTILATION			
		Is ventilation adequate for security and circulation of fresh air in the premises?			
6		LIGHTING			
		Is there sufficient and suitable lighting in every part of the premises?			
7		DISPLAYS			
		Are the following displayed?			

		<ul style="list-style-type: none"> - Approved business hours - Current Bureau licence - Current Exchange rates - Name of Principal Officer 			
8		OUTER DOORS/WALL/WINDOWS			
		Are the outer doors of heavy duty metal or reinforced wood?			
		Are there a minimum of two locks of good quality?			
		Are there arrangement for an observer holder or panel chain to be used after normal business hours?			
		Are windows and glass walls reinforced with metal grills or made of anti-burglar/bullet proof glass?			
9		FREE - STANDING SAFE			
		Is the safe fire proof?			
		Is the access to the safe and the room where the safe			
		is, kept under the control of more than one person?			
		Is the safe in a window less room and secured by a heavy duty lock door of fire resistant material?			
10		RECORD ROOM AND STATIONERY STORE			
		Is it fire proof?			
11		CASH LOADING AREA			
		Is it protected from Public view and access?			
		Is cash in transit protected by police/security firm?			
		Are there security guards at the premises at all times			
12		CASHIERS' TILL			
		Is it restricted to the individual cashiers during working hours?			
13		ALARM SYSTEM			
		Is there an alarm system installed in the premises? if yes,			
		Is it connected to police/security firm? Switches to be located in the:-			
		<ul style="list-style-type: none"> - Strongroom -Cashiers' cubicles - Principal Officer's office 			
14		EMERGENCY PLAN			
		Is there an emergency plan? Is it documented?			
		Are there fire extinguishers at appropriated places? i.e.			
		<ul style="list-style-type: none"> -Water type - Non-water type 			

		- Smoke/heat detectors			
15		COMPUTERS			
		Is access to computer use restricted? - Passwords - Access to the computer room restriction. - Back-ups made and - Stored outside the premises			
16		INSURANCES			
	(i)	Obtain certificates for the following insurances:- a) Fire and other perils b) Burglary and theft c) Public liability d) Fidelity g) Cash and valuable in premises			
	(ii)	Other assets - obtain a list of other assets and their values.			
	(iii)	Employers' liability			
	(iv)	For each of the above, carry out verification as follows:- Is the issuing insurance firm licensed by the Insurance Regulatory Commission?			
	(v)	Are there other insurances that are required to be taken under the lease agreement? i.e. glass windows.			
17		DOCUMENTATION			
	(i)	Are there detailed and comprehensive policy manuals, approved by the board of directors, covering at least the following? a) Staffing b) Training c) Fixed Assets d) Management information systems e) Budgeting and variance analysis			
		Additionally, each bureau should maintain both operations and accounting manuals.			
	(ii)	Are the policy documents availed to all staff members and are they updated regularly on any changes?			