

LEGAL NOTICE NO.....

**THE MICROFINANCE ACT
(No. 19 of 2006)**

IN EXERCISE of the powers conferred by sections 7 and 48(2) of the Microfinance Act, the Minister for Finance makes the following Regulations-

**THE MICROFINANCE (CATEGORIZATION OF DEPOSIT-TAKING
MICROFINANCE INSTITUTIONS) REGULATIONS, 2008**

- Citation. **1.** These Regulations may be cited as the Microfinance (Categorization of Deposit Taking Microfinance Institutions) Regulations, 2008
- Interpretation. **2.** In these Regulation unless the context otherwise requires-
- “community microfinance institution” means an institution licensed to carry out deposit-taking microfinance business in the manner prescribed in Regulation 3(b);
- “nationwide microfinance institution” means an institution licensed to carry out deposit-taking microfinance business in any part of Kenya.
- Types of categories **3.** The Central Bank may license any institution in Kenya, either as a: -
- (a) nationwide microfinance institution, which may carry out its deposit-taking business operations countrywide; or
- (b) community microfinance institution which may carry out its deposit-taking business operations –
- (i) within one Government Administrative District or
- (ii) within one Government Administrative Division, where the deposit-taking business is operated in a City; or
- (iii) in any other specified region as the Central Bank may deem appropriate.

Factors for assessing categorization	<p>4. The Central Bank shall consider the following factors necessary for categorizing an institution -</p> <ul style="list-style-type: none"> (a) the reasons given by an institution on the proposed area of operation; (b) adequacy of the capital structure of the applicant; (c) corporate governance, information technology system and internal controls; (d) character, experience and qualifications of proposed directors and officers; (e) the target clientele, feasibility study and viability of the institution; (f) all other requirements specified in the Act and the regulations; and (g) any other factors that the Central Bank may deem appropriate.
Persons not to operate outside prescribed categories.	<p>5(1) No person shall carry out deposit-taking microfinance business outside the prescribed categories;</p> <p>(2) A person who contravenes subregulation (1) commits an offence.</p>
Application for categorization.	<p>6(1) A person wishing to carry out deposit-taking microfinance business shall submit an application to the Central Bank indicating the category within which the applicant wishes to operate.</p> <p>(2) The Central Bank, in making its decision as to licence an institution as a nationwide microfinance institution or community microfinance institution, shall consider the factors set out in Regulation 4 of these Regulations.</p> <p>(3)The decision of the Central Bank shall be final.</p>
Conversion without approval prohibited.	<p>7(1) No person shall convert a community microfinance institution into a nationwide microfinance institution without the written approval of the Central Bank.</p> <p>(2) A person who contravenes subregulation (1) commits an offence.</p>
Application to convert community to nationwide	<p>8. An application to convert a community microfinance institution into a nationwide microfinance institution shall be made to the</p>

Central Bank as set out in the Schedule to these Regulations.

Central Bank to grant approval.

9. The Central Bank, if satisfied that an institution meets the requirements necessary to convert into a nationwide microfinance institution, shall grant an approval for conversion and may attach such conditions as the Central Bank may deem necessary.

Prohibition to convert from nationwide to community.

10. A nationwide microfinance institution shall not convert into a community microfinance institution.

General penalty.

11. A person who contravenes these Regulations commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

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SCHEDULE

APPLICATION FORM TO CONVERT A COMMUNITY MICROFINANCE INSTITUTION TO A NATIONWIDE MICROFINANCE INSTITUTION

1. Name of Institution.....
2. Situation of Registered Office.....
3. Physical Address of Head Office: L.R. No.....
Street.....
Building.....
4. Postal Address and Postal Code.....
Telephone No..... P.I.N. No.....
5. Date of incorporation and certificate no.....
6. Date licensed as a community microfinance institution and license number.
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7. Reasons/justification of the need to convert to a nationwide microfinance institution including but not limited to the following:
 - a) Feasibility study report and business plan,
 - b) Capitalisation levels, and
 - c) Governance structure.
8. Is an inspector or other authorized officer of any government ministry, department or agency, professional association or other regulatory body investigating or has such an investigation ever previously taken place into the affairs of the institution?.....
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If so, give particulars.....
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9. Is the institution currently engaged or does it expect to be involved in Kenya or elsewhere, in any litigation which may have a material effect on the business of the institution?.....
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If so, give particulars.....

10. Is the institution engaged or does it expect to be engaged in any business relationship with any of its officers or significant shareholders
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If so, give particulars.....

11. The Central Bank shall consider the institution's performance and compliance with the Act and Regulations, and any other relevant material in making its decision to approve the conversion.

12. DECLARATION

We, the undersigned, being officers of the institution, declare that to the best of our knowledge and belief, the information contained herein and any attachments is complete and accurate.

a) Director
(Name).....

Signature.....

Date.....

b) Director
(Name).....

Signature.....

Date.....

Dated, 2008

AMOS KIMUNYA
Minister for Finance