

LEGAL NOTICE NO.
THE CENTRAL BANK OF KENYA ACT
(Cap. 491)

IN EXERCISE of the powers conferred by section 57(1), (3) and (4) of the Central Bank of Kenya Act, the Central Bank of Kenya makes the following Regulations—

THE CENTRAL BANK OF KENYA (NON-DEPOSIT TAKING CREDIT PROVIDERS) REGULATIONS, 2025

PART I— PRELIMINARY

Citation

1. These Regulations may be cited as the Central Bank of Kenya (Non-deposit-taking Credit Providers) Regulations, 2025.

Application

2.
 - (1) These Regulations shall apply to non-deposit taking credit business not regulated under any other written law.
 - (2) These Regulations shall not apply to—
 - (a) an institution licensed under the Banking Act;
 - (b) an institution licensed under the Microfinance Act, (Cap 493C);
 - (c) a Sacco society licensed under the Sacco Societies Act, (Cap 490B);
 - (d) the Kenya Post Office Savings Bank supervised under the Kenya Post Office Savings Bank Act (Cap 493B);
 - (e) credit arrangements involving the provision of credit by a person that is merely incidental to the sale of goods or provision of services by the person whose primary business is the provision of the goods or services;
 - (f) an entity whose non-deposit-taking credit business is regulated under any other written law; or
 - (g) any other entity approved by the Bank.

Interpretation

3. In these Regulations, unless the context otherwise requires—

“Act” means the Central Bank of Kenya Act;

“Bank” means the Central Bank of Kenya;

“beneficial owner” has the meaning assigned to it under the Companies Act (Cap 486).

“Certificate of Registration” means a document issued by the Bank to a person who has applied for and fulfils the requirements for registration under these Regulations.

“charges” includes all the payments that a customer makes, is required to make, or agrees to make to a non-deposit-taking credit provider in consideration of the loan by the non-deposit-taking credit provider to the customer, and all interest, fees, expenses and costs associated with the provision of the loan;

“credit information” means any positive or negative information relating to an individual’s or entity’s credit worthiness, credit standing, credit capacity, or history or profile with regard to credit, assets, and any financial obligations;

“consumer” means a customer and a person who seeks to obtain non-deposit-taking credit from a non-deposit-taking credit provider;

“customer” means a person who obtains non-deposit-taking credit from a non-deposit-taking credit provider;

“delivery channel” means the mode or platform through which services are rendered and includes but not limited to physical premises, mobile phone, credit card, internet, telephone, ATM, agent, app-based platforms, USSD, marketing units, mobile units, third party premises and such other channel as the Bank may approve.

“deposit” means a sum of money received or paid on terms under which it shall be repaid, with or without interest or a premium, and either on demand, or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it;

“License” means a document granted by the Bank to a person who fulfils the requirements for licensing under the Act and these Regulations.

“non-performing loan” means a loan in which the principal or interest is due and unpaid after the due date as per the loan agreement between a non-deposit-taking credit provider and a customer;

“place of business” means any premise including the head office, branch, agency or any such premises as may be approved by the Centra Bank at which the non-deposit-taking credit provider carries on business;

“senior officer” means a manager or officer responsible for a significant unit of a non-deposit-taking credit provider;

“significant shareholder” means a person other than the Government or a public entity, who holds directly or indirectly or otherwise has a beneficial interest in ten percent or more of the share capital of a non-deposit-taking credit provider.

“third-party service provider” means a person who is undertaking an outsourced activity on behalf of a non-deposit-taking credit provider and includes a member of the group to which the

non-deposit-taking credit provider belongs, or unrelated company whether located in Kenya or outside.

Name approval

- (1) A person shall not establish or carry out non-deposit-taking credit business in Kenya or otherwise hold himself out as carrying out non-deposit-taking credit business unless that person is licensed or registered by the Bank in accordance with these Regulations, or is a person whose non-deposit-taking credit business is regulated under any other written law.
- (2) Promoters of a proposed non-deposit-taking credit provider shall propose and reserve at least three business names with the Business Registration Services.
- (3) The promoters shall submit the proposed three names to the Bank for approval, in order of preference, together with the following supporting information—
 - (a) name reservation document obtained from Business Registration Services;
 - (b) names and addresses of the proposed shareholders, including certified copies of requisite identification documents or certificates of incorporation or registration in case of corporate entities.
 - (c) a high-level brief providing information on the proposed business covering—
 - (i) nature of proposed business indicating the proposed business activities;
 - (ii) evidence of availability and amount of capital;
 - (iii) shareholding structure including details of shareholders, respective shareholding percentages and ultimate beneficial owners;
 - (iv) organizational structure describing proposed functional units through which the business will be managed;
 - (v) governance structure describing proposed board composition, its functions and senior management responsibilities;
 - (vi) business model (including the delivery channels and platforms to used) and;
 - (vii) target market, clearly bringing out the gap that the proposed business intends to fill in the market; and
 - (viii) an indication on whether the company will be applying for a license or registration to conduct non-deposit taking credit business.
- (4) The promoters shall obtain and submit to the Bank a letter of no objection from Kenya Industrial Property Institute on the use of the proposed business names.
- (5) The Bank shall consider the information and the names submitted and may take into account the suitability of the proposed names and any other relevant matter including any representations made during any meeting between the Bank and the promoters which may have a bearing on the proposed names or proposed credit business.

- (6) Where the names are not suitable, the Bank may direct the promoters to submit three fresh names which shall be considered in accordance with sub-regulation (5).
- (7) The Bank may grant an approval of a name on such conditions as it may impose.
- (8) Upon approval of the proposed name by the Bank, the promoters shall incorporate the company within three months and shall apply to the Bank for a license or registration within six months from the date of incorporation.
- (9) Where the promoters fail to comply with sub-regulation 8, the approval of the proposed name shall lapse and they shall be required to cease using the proposed name.

PART II— LICENSING OF NON-DEPOSIT-TAKING CREDIT PROVIDERS

Prohibition from carrying on business without a license or registration

- (1) A person shall not establish or carry out non-deposit-taking credit business in Kenya or otherwise hold himself out as carrying out non-deposit-taking credit business unless that person is licensed or registered by the Bank in accordance with these Regulations, or is a person whose non-deposit-taking credit business is regulated under any other written law.
- (1) A person who seeks to carry out a non-deposit-taking credit business in Kenya and whose initial capital is more than 20 million shillings shall apply to the Bank for a licence in Form CBK NDTCP 1 set out in the First Schedule.
- (2) An application under sub-regulation (1) shall be accompanied by—
 - (a) a certified copy of the certificate of incorporation of the applicant issued under the Companies Act;
 - (b) a certified copy of the Memorandum and Articles of Association of the applicant;
 - (c) notification of the applicant's registered address;
 - (d) a certificate issued pursuant to section 19 of the Data Protection Act (Cap. 411C);
 - (e) a statement on how the applicant shall comply with the provisions of Part VII of the Consumer Protection Act (Cap. 501);
 - (f) evidence of availability and amount of capital to be invested in the proposed business;
 - (g) information on the source of capital;
 - (h) a certified copy of a certificate of incorporation, Memorandum and Articles of Association of any corporate body that has a significant shareholding in the applicant;

- (h) a certified copy of the constitutive documents of an unincorporated body that has a significant shareholding in the applicant;
- (i) a description of any information and communication technology system to be used;
- (j) a description of delivery channels or platforms to be used in conducting the business or delivering services;
- (k) a description of, and terms and conditions of credit products and services which the applicant intends to provide;
- (l) draft agreement with a service provider in relation to provision of delivery channel; where applicable;
- (m) a description of consumer protection measures to be put in place including complaints redress mechanism;
- (n) a description of data protection measures to be put in place to ensure protection of personal data of the customer and the proposed non-deposit taking credit provider;
- (o) a description of how the credit business will be conducted highlighting proposed range of loan sizes, range of interest rates, loan classification criteria, the period within which a loan will deemed non-performing, and whether the business will be funded wholly out of capital or from other sources as well;
- (p) a copy of the credit policy and procedures;
- (q) a copy of the code of conduct;
- (r) a copy of the consumer protection policy and procedures;
- (s) a copy of the Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) policy and procedures;
- (t) a copy of the data protection policy and procedures;
- (u) A copy of the corporate governance policy and procedures;
- (v) a sworn declaration by the shareholders on the sources of funds and that the funds are not from proceeds of crime;
- (w) a non-refundable application fee set out in the Second Schedule;
- (x) the names and addresses of the shareholders in Form CBK NDTCP 1 set out in First Schedule;
- (y) duly filled fit and proper forms for the directors, chief executive officer and senior officers and significant shareholders in Form CBK NDTCP 2 and Form CBK NDTCP 3, respectively;
- (z) the applicant's pricing parameters;
- (aa) certificate of good conduct, tax compliance certificate and credit reference bureau report for each of the non-deposit-taking credit provider's individual significant shareholders, directors, chief executive officer and senior officers;
- (bb) In case of a foreign applicant:
 - (i) documents required under any other law for a foreigner to invest in Kenya; and

- (ii) evidence that the foreign applicant meets the minimum capital for foreign investment in Kenya as may be required under any other written law;
- (cc) a sworn declaration signed by every officer as specified in the application form;
- (dd) copies of the last three years' annual audited financial statements; and
- (ee) any other information as may be required by the Bank.

Issuance of a licence

- (1) In assessing the application, the Bank shall consider the following—
 - (a) adequacy of the information and documents furnished in support of the application;
 - (b) the professional and moral suitability of the persons proposed to manage or control the non-deposit-taking credit provider;
 - (c) the sources and evidence of funds to be invested by or in the non-deposit-taking credit provider; and
 - (d) the public interest.
- (2) The Bank may, if satisfied that the applicant meets the requirements of these Regulations, grant with or without conditions, a licence to the applicant, within sixty days of submission of a complete application.
- (3) A license issued under these Regulations shall remain valid unless suspended or revoked by the Bank.
- (5) A non-deposit taking credit provider shall, three months before December each year pay annual fees to the Bank as specified in Second Schedule.
- (6) The Bank may impose such penalty as it may deem fit against a deposit-taking credit provider which fails to pay the annual fees within the timeframe specified in sub-regulation (5).

Discontinuation of license application

- (1) Where an applicant has not responded to a request by the Bank for additional information for a period of three months, the Bank may discontinue the processing of the licence application.
- (2) After the expiry of the three months referred to in sub-regulation (1), the Bank may issue a fourteen days' notice to show cause to the applicant why the license application processing should not be discontinued and the Bank may consider any representations made pursuant to the notice to show cause.

- (3) The Bank shall notify the applicant of the decision on discontinuation of processing of the license application within seven days after the decision is made.
- (4) Where an application has been discontinued under sub-regulation (1), the applicant may make a fresh application for a licence on such terms as the Bank may impose.

PART III— REGISTRATION OF NON-DEPOSIT-TAKING CREDIT PROVIDERS

Application for registration

- (1) A person who seeks to conduct a non-deposit taking credit business and whose initial capital is less than 20 million shillings may apply to the Bank for registration as a non-deposit taking credit provider.
- (2) An application for registration shall be made in the prescribed form set out in Form CBK NDTCP 1 in the First Schedule.
- (3) An application under sub-regulation (2) shall be accompanied by—
 - (a) a certified copy of the certificate of incorporation of the applicant issued under the Companies Act;
 - (b) a certified copy of the Memorandum and Articles of Association of the applicant;
 - (c) notification of the applicant's physical address;
 - (d) a valid certificate issued pursuant to section 19 of the Data Protection Act (Cap. 411C);
 - (e) a statement as to compliance with the provisions of Part VII of the Consumer Protection Act (Cap. 501);
 - (f) evidence of availability and amount of capital to be invested in the proposed business;
 - (g) information on source of capital;
 - (h) a description of, and terms and conditions of credit products and services which the applicant intends to provide;
 - (i) a brief on the applicant's Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) policies and procedures;
 - (j) a brief on the applicant's data protection policies and procedures;
 - (k) a brief on the applicant's corporate governance policy and procedures;
 - (l) a brief on the applicant's consumer protection policies and procedures covering among other things complaint redress mechanisms;
 - (m) a non-refundable application fee set out in the Third Schedule;

- (n) duly filled fit and proper forms for the directors, chief executive officer and senior officers and significant shareholders in Form CBK NDTCP 2 and Form CBK NDTCP 3, respectively.
 - (o) the applicant's credit policy and procedures;
 - (p) a code of conduct;
 - (q) the applicant's pricing parameters;
 - (r) certificate of good conduct, tax compliance certificate and credit reference bureau report for each of the non-deposit-taking credit provider's individual significant shareholders, directors, chief executive officer and senior officers;
 - (s) a sworn declaration signed by every officer as specified in the application form; and
 - (t) any other information as may be required by the Bank.
- (4) No person shall understate its initial capital in order to meet registration requirements of this Part.
 - (5) A person who understates its initial capital in order to meet registration requirements shall be liable to the penalty prescribed in section 33S(10) of the Act and where a certificate of registration has been issued, the Bank may revoke the registration.

Issuance of a Certificate of Registration

- (1) Upon being satisfied that an applicant has submitted complete documentation required, the Bank may grant a certificate of registration with or without conditions.
- (2) A certificate issued under this Part shall remain valid unless revoked or suspended.
- (3) A registered non-deposit-taking credit provider shall on or before the thirty-first day of December every year pay annual fees set out in the Second Schedule in such manner as the Bank may specify.

Conversion of registration into license

- (1) Where a registered non-deposit-taking credit, in the course of business meets any of the following conditions, it shall apply to the Bank for a license in the Form CBK NDTCP 1—
 - (a) capital exceeds 20 million shillings;
 - (b) borrowings exceed 20 million shillings; or
 - (c) loan book exceeds 20 million shillings.
- (2) Notwithstanding the provisions of sub-regulation (1), the Bank may direct a registered non-deposit-taking credit provider to apply for a license where the person has —
 - (a) Failed to disclose the correct figures under sub-regulation 1.

- (b) Undergone a rapid expansion of business following licensing.
- (3) An application under this Regulation shall be accompanied by the following documents and information—
 - (a) evidence of availability and amount of capital;
 - (b) total borrowings indicating lenders, date of borrowings, principal amounts, interest rates applicable, total amount owing;
 - (c) total loan book indicating details of the loans as may be specified by the Bank;
 - (d) a copy of the credit policy and procedures;
 - (e) a copy of the code of conduct;
 - (f) a copy of the consumer protection policy and procedures;
 - (g) a copy of the Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) policy and procedures;
 - (h) a copy of the data protection policy and procedures;
 - (i) A copy of the corporate governance policy and procedures;
 - (j) information on pricing parameters;
 - (k) a report on complaints received, nature of complaints, number of complaints resolved, not resolved, nature of corrective actions taken; and
 - (l) any other information as the Bank may require.
- (4) The Bank may process the application based on the information submitted and may grant a license with or without conditions.
- (5) The Bank shall within thirty days after issuing a license, publish in the gazette the conversion from a registered to a licensed non-deposit taking credit provider.
- (6) Save as provided under this Part, upon issuance of a license under this Part, all other requirements in these Regulations relating to a licensed a non-deposit taking credit provider shall apply to a non-deposit taking credit provider licensed under this Part.
- (7) A registered non-deposit taking credit provider which has applied for or has been directed by the Bank to apply for a license under this Part, shall continue conducting credit business, pending processing of the license application by the Bank.

PART IV— OPERATION OF NON-DEPOSIT TAKING CREDIT BUSINESS

Publication of licensed and registered non-deposit taking credit providers

The Bank shall publish the name of every licensed or registered non-deposit-taking credit provider in the Gazette and in the Bank’s website within thirty days of grant of licence or registration.

Licence or certificate of registration not transferable

The licence or certificate of registration granted pursuant to these Regulations shall not be transferred, assigned or encumbered in any way.

Fit and proper obligations

- (1) A non-deposit-taking credit provider shall notify the Bank of any intended changes in its significant shareholding, board or management structure, or the appointment of a new director, chief executive officer or a senior officer at least thirty days before the effective date of such changes or appointments.
- (2) No person shall be a significant shareholder, director, chief executive officer or a senior officer of a non-deposit-taking credit provider unless the Bank has certified the person as fit and proper in accordance with the criteria set out in the Third Schedule;
- (3) Notwithstanding sub-regulation (2) a non-deposit-taking credit provider may make a conditional appointment of a chief executive officer or a senior officer pending the Bank's certification.
- (4) The Bank may, from time to time, where it considers it necessary, carry out an assessment of the professional and moral suitability of a director, chief executive officer, significant shareholder or a senior officer of a non-deposit-taking credit provider.
- (5) The Bank may direct a significant shareholder who is considered by the Bank as not fulfilling the fit and proper criteria to dispose of all or part of his shares in a non-deposit-taking credit provider within such period as the Bank may specify.
- (6) The Bank may disqualify any person from holding the position of director, chief executive officer or senior officer or holding any other office in a non-deposit-taking credit provider, bank, mortgage finance company, mortgage -refinance company, microfinance bank, money remittance provider, foreign exchange bureau, payment service provider, credit reference bureau or credit guarantee company licensed by the Bank if that person is determined not to meet the fit and proper criteria prescribed in these Regulations.
- (7) A disqualification under sub-regulation (6) may not extend for a period exceeding 3 years.
- (8) A non-deposit taking credit provider shall ensure that its significant shareholders, directors, chief executive officer and senior officers meet the fit and proper criteria set out in the Third Schedule.

- (9) Sub-regulation (2) and (3) may not apply to a registered non-deposit taking credit provider except as the Bank may specify on a case by case basis.

Corporate governance

- (1) A non-deposit-taking credit provider shall practice sound corporate governance principles based on ethics and integrity, good reputation and legitimacy, sound risk management and compliance with the law.
- (2) Without prejudice to sub-regulation (1), a non-deposit-taking credit provider shall:
- (a) have a board of directors which shall exercise effective oversight over the management of the credit business of a non-deposit taking credit provider;
 - (b) have an organizational structure that ensures the conduct of a sound and viable credit business;
 - (c) put in place a risk management and compliance frameworks that ensure sound business management and adherence to the Act, other relevant written law, these regulations, guidelines, policies, procedures and directives of the Bank;
 - (d) ensure that functions of the board and senior management are clearly separated; and
 - (e) the board is constantly apprised of business activities and the performance thereof.

Place of business

- (1) A non-deposit-taking credit provider shall have at least one registered physical office in Kenya, in accordance with the requirements of the Companies Act, (Cap 486).
- (2) A non-deposit-taking credit provider shall not open, relocate or close a branch or place of business without prior written notification to the Bank, at least thirty days before the opening, relocation or closure.
- (3) A non-deposit-taking credit provider shall prominently display a copy of its licence or registration in all its places of business.

Permissible activities

- (1) A non-deposit-taking credit provider may engage in any of the following activities—
- (a) granting of loans or credit facilities, whether or not digitally, to members of the public or a section of it, with or without interest, and either secured or unsecured on the goods or assets purchased;
 - (b) asset financing whether directly or through a third-party financier;

- (c) buy now pay later arrangements as determined by the Bank but does not include hire purchase agreements governed by the Hire-Purchase Act;
 - (d) credit guarantees, except as prohibited by any other written law;
 - (e) pay as you go arrangements as maybe determined by the Bank;
 - (f) peer to peer lending under collective investment schemes regulated under the Capital Markets Act and other forms of peer to peer lending as approved by the Bank;
 - (g) any other activity as the Bank may determine to be a non-deposit taking credit business for purposes of this Act; and
 - (h) any other activity incidental to non-deposit taking credit business as may be approved by the Bank.
- (2) A credit arrangement involving the provision of credit by a person that is merely incidental to the sale of goods and provision of services by the person shall not constitute a non-deposit taking credit business.

Prohibited activities

- (1) A non-deposit-taking credit provider shall not engage in the following activities—
- (a) deposit taking business;
 - (b) taking of cash as security for loans;
 - (c) collection of registration fees or membership fees from loan applicants or borrowers;
 - (d) foreign exchange business;
 - (e) payment services and transfer of funds;
 - (f) trust operations; and
 - (g) any other activity as the Bank may determine.
- (2) A non-deposit-taking credit provider who contravenes the provisions of sub regulation (1) shall be liable to assessment of penalties and other administrative sanctions as provided for in these Regulations, including suspension or revocation of the licence or certificate of registration.

Suspension or revocation of licence or registration

- 1) The Bank may suspend or revoke a licence or registration if a non-deposit-taking credit provider—
- (a) does not meet or has contravened any of the licensing or registration conditions;
 - (b) fails to pay annual fees or a monetary penalty that is imposed by the Bank;
 - (c) fails to comply with any administrative sanction as the Bank may impose;
 - (d) fails to take corrective measures as the Bank may direct;

- (e) is found to have given false information during the licence or registration application stage;
 - (f) ceases to carry on the business of a non-deposit-taking credit provider;
 - (g) goes into liquidation or an order is issued for its winding up;
 - (h) violates anti-money laundering laws or combating the financing of terrorism laws;
 - (i) has contravened any of the provisions of the Act, any other relevant written law, or any regulations made thereunder relating to non-deposit-taking lending;
 - (j) fails to comply with a guideline, circular or directive issued by the Bank;
 - (k) otherwise conducts its business in a manner detrimental to the interests of its customers or members of the public;
 - (l) fails to conclusively address a customer's complaint within the time and in the manner prescribed by the Bank under these Regulations or as the Bank may direct;
 - (m) imposes unreasonable or unjustifiable charges on the loan;
 - (n) fails to commence business within 12 months from date of licensing or registration;
 - (o) carries out a prohibited activity;
 - (p) engages in illegal activity;
 - (q) is unable to conduct a viable non-deposit-taking business; or
 - (r) applies to the Bank for revocation of the licence or registration.
- (2) The Bank shall in writing and before suspending or revoking a licence or registration, inform the non-deposit-taking credit provider of the reasons of the intended suspension or revocation and give the non-deposit-taking credit provider an opportunity to be heard.
 - (3) The Bank shall specify the reasons for and the period of suspension of a non-deposit-taking credit provider's licence or registration, and shall at the expiry of that period, and fulfilment of any condition imposed, lift the suspension as the Bank considers appropriate.
 - (4) A non-deposit-taking credit provider whose licence or registration has been suspended shall not grant new loans or carry out other permissible activities but may continue receiving loan repayments and settle its liabilities.
 - (5) The Bank shall cause the names of non-deposit-taking credit providers whose licences or registration have been suspended or revoked to be published in the Gazette within thirty days of the suspension or revocation.
 - (6) A non-deposit taking creditor whose license or registration has been revoked shall cease to conduct business forthwith.
 - (7) Where a licence or registration has been revoked, the Bank may, by notice in writing—

- (a) require the non-deposit-taking credit provider to transfer to each customer the records relating to the financial affairs of the customer held at any time, in such manner, as the Bank may specify in the notice;
- (b) permit the non-deposit-taking credit provider, subject to such conditions as the Bank may specify in the notice, to carry on business operations for the purpose of closing down the business connected with the revocation; or
- (c) permit the non-deposit-taking credit provider to collect or recover loan repayments and settle its liabilities to third parties for such period and on such conditions as the Bank may specify.

Amalgamations and transfer of assets, liabilities, and shares.

- (1) A non-deposit-taking credit provider shall not, except with the prior written approval of the Bank—
 - (a) sell or transfer its non-deposit-taking credit business to another person except to another non-deposit-taking credit provider;
 - (b) enter into an amalgamation with another non-deposit-taking credit provider; or
 - (c) transfer part of its non-deposit taking credit business to another person.
- (2) For purposes of considering an application for approval under sub-regulation (1), the Bank may request for such information from the non-deposit taking credit provider as it may require.
- (3) Notwithstanding sub regulation (1), a non-deposit-taking credit provider may not require the prior approval of the Bank to undertake transactions in the ordinary course of business, including asset disposals in the ordinary course of business.
- (4) A non-deposit-taking credit provider shall notify the Bank at least thirty days before entering into any agreement or arrangement with a third party for purposes of investing in the non-deposit-taking credit provider or financing the activities of the non-deposit-taking credit provider.
- (5) A non-deposit-taking credit provider shall not transfer ten percent or more of its shareholding to another person without prior approval of the Bank.
- (6) Any transfer of shares by a non-deposit-taking credit provider to another person below the threshold under sub-regulation (5) shall be notified to the Bank within such period as the Bank may specify.
- (7) No person shall acquire ten percent or more of the shareholding of a non-deposit-taking credit provider unless he has been certified by the Bank as fit and proper.
- (8) The Bank may direct a non-deposit-taking credit provider to submit such additional information and documents as it may consider necessary for purposes of considering any transaction, agreement, arrangement or transfer under this Regulation.

- (9) The Bank may by a notice exempt registered non-deposit taking credit providers from any of the provisions of this Regulation.

Risk management

- (1) A non-deposit-taking credit provider shall put in place a risk management framework consistent with its size, business model and risk appetite that ensures that all relevant risks it faces are identified, assessed, understood and mitigated.
- (2) Without prejudice to sub-regulation (1), the risk management framework shall cover all relevant risks including—
- (a) credit risk;
 - (b) operational risk;
 - (c) compliance risk;
 - (d) reputation risk;
 - (e) information and technology risk;
 - (f) liquidity risk; and
 - (g) any other risk relevant to the non-deposit taking credit provider.

Provision of credit.

- (1) A non-deposit-taking credit provider may extend loans to its customers subject to these Regulations, other relevant written laws, its credit policy and any other requirements issued by the Bank, and shall clearly state the terms and conditions of the loans.
- (2) A non-deposit-taking credit provider may in its credit policy set parameters for determining borrower credit limits.

Credit policy

- (1) A non-deposit-taking credit provider shall formulate a credit policy consistent with the Act, other relevant written laws, these Regulations and Part VII of the Consumer Protection Act (Cap 501).
- (2) The policy referred to under sub-regulation (1) shall at a minimum include the following—
- (a) lending procedures and documentation;
 - (b) eligibility requirements for a loan;
 - (c) types of loans, tenure and frequency of payments;
 - (d) types of acceptable collateral, if applicable;

- (e) loan limits per borrower and per product, if applicable;
- (f) loan pricing which includes interest rates, fees, and charges;
- (g) loan approval process;
- (h) determination of the borrower's ability to repay the loan;
- (i) loan guarantee requirements;
- (j) monitoring and evaluation of credit quality;
- (k) the grace period, if applicable;
- (l) loan recovery and follow-up procedures;
- (m) the criteria and procedure for restructuring of loans;
- (n) loan processing time upon submission of a complete loan application; and
- (o) the criteria and procedure for approval and authorization required for writing off bad loans.

Products

- (1) A non-deposit-taking credit provider shall not introduce a new non-deposit-taking credit product to the market or vary the features of an existing product without the Bank's prior written approval.
- (2) A non-deposit-taking credit provider shall notify its customers of any variations in product features at least thirty days before the variations take effect.

Channel delivery

- (1) A non-deposit-taking credit provider shall notify the Bank of its intention to introduce a new delivery channel thirty days before roll out.
- (2) Without prejudice to sub-regulation (1), a non-deposit-taking credit provider shall notify the Bank of the following thirty days being commencement of use—
 - (a) Paybill numbers to be used for disbursements and repayments of loans;
 - (b) App-based platforms to be launched; and
 - (c) Name of bank and number of accounts to be operated.
- (3) With respect to app-based and other digital platforms, a non-deposit-taking credit provider shall make provision for unsubscribing or opting out from the service including from receiving marketing messages.
- (4) A non-deposit-taking credit provider shall ensure that the delivery channels used to provide services are—
 - (a) available at all times;
 - (b) safe and secure and are protected against fraud or misuse by third parties; and

- (c) easy to access and use.

Agents

- (1) A non-deposit-taking credit provider may through a written contract, appoint an agent to provide specified services on its behalf.
- (2) The contract under sub-regulation (1) shall specify—
 - (a) rights and liabilities of both parties;
 - (b) terms and conditions guiding the relationship;
 - (c) specific services to be provided by the agent;
 - (d) consumer protection measures to be observed by the agent;
 - (e) dispute resolution measures;
 - (f) such other requirements as may be specified by the Bank or agreed upon by the parties.
- (3) A non-deposit-taking credit provider shall assess suitability and eligibility of a person to be appointed as an agent.
- (4) A non-deposit-taking credit provider shall notify the Bank at least thirty days prior to appointing an agent and the notification shall contain the name; identification details, physical address, postal address, telephone number, e-mail address and geographical location of the agent and the application fees set out in the Second Schedule.
- (5) Where a non-deposit-taking credit provider enters into a contract with an agent, the non-deposit-taking credit provider shall remain liable for all acts and omissions of the agent.
- (6) A non-deposit-taking credit provider shall at least two months before the end of each year, apply to the Central Bank for the renewal of approval of its agents and submit the annual renewal fees for each agent set out in the Second Schedule.
- (7) A non-deposit-taking credit provider shall keep and maintain at all times an updated register of appointed agents.

Credit appraisal

- (1) A non-deposit-taking credit provider shall—
 - (a) consider a loan application in accordance with its credit policy;
 - (b) take reasonable steps to assess the customer's ability to repay the credit facility; and
 - (c) assess any relevant risk before granting a loan to an applicant.
- (2) Where a loan application is denied, a non-deposit-taking credit provider shall immediately communicate the decision to the applicant and shall state the reasons for the decision.

- (3) Subject to its credit policy, a non-deposit-taking credit provider may restructure a loan in terms of instalment amount, payment period or other terms upon receipt of a request from a borrower or on prior notification to the customer.

Limit on interest recoverable from non-performing loans

- (1) A non-deposit-taking credit provider shall be limited in what it may recover from a customer with respect to a non-performing loan to the maximum amount under sub-regulation (2).
- (2) The maximum amount referred to in sub-regulation (1) is the sum of the following—
 - (a) the principal owing when the loan becomes non-performing;
 - (b) interest in accordance with the contract between the customer and the non-deposit-taking credit provider, not exceeding the principal owing when the loan becomes non-performing; and
 - (c) reasonable expenses incurred in the recovery of any amounts
- (3) If a loan becomes non-performing and then the customer resumes payments on the loan and then the loan becomes non-performing again, the limitation under sub-regulation (2)(a) and (b) shall be determined with respect to the time the loan last became non-performing.
- (4) This Regulation shall not apply to limit any interest under a court order accruing after the order is made.
- (5) Except as provided for under sub-regulation (4), no person shall recover any interest howsoever, in excess of outstanding principal amount.

Credit collection

- (1) A non-deposit-taking credit provider, its officers, employees, agents or outsourced service providers shall not, in the course of debt collection, engage in any of the following conduct against a customer or any other person—
 - (a) use of threat, violence or other means to harm a person, or his reputation or property if he does not settle his loan;
 - (b) use of obscene or profane language sent to a customer or the customer's references or contacts for purposes of shaming him;
 - (c) access a customer's phone book or contacts list and other phone records for purposes of sending them messages in the event of untimely payment or non-payment of a loan;

- (d) post a customer's personal or sensitive information online or on any other forum or medium for purposes of shaming him;
 - (e) make unauthorized or unsolicited calls or messages to a customer's phone contacts and other contacts;
 - (f) improper or unconscionable debt collection tactic, method or conduct;
 - (g) any other conduct whose consequence is to harass or oppress a customer;
 - (h) abuse any person in connection with the collection of a debt;
 - (i) making calls to a borrower or any other person during odd hours or
 - (j) collecting or repossessing physical security using violence and other forms of harassment or intimidation; or
 - (k) taking away essential personal effects of a borrower in the course of collecting, repossessing or realizing security.
- (2) A non-deposit-taking credit provider shall not recover any charges which were not disclosed in the contract signed and given to the customer at the point of contracting.
 - (3) A non-deposit-taking credit provider shall comply with the Land Act with respect to recovery of securities relating to land.
 - (4) A non-deposit-taking credit provider shall comply with the Movable Securities Rights Act with respect to recovery of securities relating to movable securities.
 - (5) The Bank may direct a non-deposit-taking credit provider to refund to a customer-
 - (a) any money recovered in excess of the amount due and owing or in breach of contract;
 - (b) any money recovered in the form of charges which were not disclosed in the loan agreement.

Outsourcing

- (1) A non-deposit-taking credit provider may outsource some of its services to a third-party service provider but such services shall not include—
 - (a) decision to grant loans;
 - (b) management and control of the non-deposit taking credit provider;
 - (c) decision-making by the board;
 - (d) determination of compliance with applicable laws and regulations; and
 - (e) management of the loan portfolio.
- (2) Where an outsourcing arrangement has been entered into, the non-deposit-taking credit provider shall remain liable for all acts and omissions of the third-party service provider.

- (3) A non-deposit-taking credit provider shall notify the Bank at least thirty days prior to entering into an outsourcing arrangement with a third-party service provider and shall submit the following information—
- (a) identity details of the proposed outsourced third-party service provider including name, postal address, physical address, telephone number and geographical location;
 - (b) a brief background information on the shareholders, directors, senior officers, nature of business and business record of the proposed third-party service provider and in the case of a natural person, the nature of business and business record of the person; and
 - (c) description of the services to be outsourced.
- (4) An outsourced third-party service provider shall ensure the following—
- (a) safety, security and confidentiality of customer information and that of the non-deposit taking credit provider;
 - (b) using ethical means in rendering service including dealing with customers, were applicable; and
 - (c) compliance with relevant provisions of the Act, Part VII of the Consumer Protection Act, Data Protection Act, these Regulations, all other relevant written laws and any directive or guideline that may be issued by the Bank.
- (5) The contract signed between a non-deposit taking credit provider and a third-party service provider shall expressly provide for the Bank's right of oversight and access to the service provider's premises, books, records, systems, employees and any information the Bank may require for the proper discharge of its functions under the Act and these Regulations.

Confidentiality

- (1) A non-deposit-taking credit provider shall put in place appropriate policies, procedures and systems to ensure the confidentiality of customer information and transactions.
- (2) A non-deposit-taking credit provider shall not share customer information with any other person except with the customer's consent, or as may be required or permitted under any written law.
- (3) The directors, officers, employees, agents and third party service providers of a non-deposit-taking credit provider shall protect the confidentiality of customer information and transactions.
- (4) A director, officer, employee or agent of a non-deposit-taking credit provider shall not during, or upon and after termination of engagement or employment with the non-

deposit-taking credit provider, except in the proper course of his duty and with the non-deposit-taking credit provider's written consent, divulge or make use of any confidential information, secrets, copyright material, or any correspondence, accounts of the non-deposit-taking credit provider or its customers.

Exchange of credit information

- (1) Notwithstanding any other provision in these Regulations, a non-deposit-taking credit provider shall disclose both positive and negative credit information of its customers to licensed credit reference bureaus, where such information is reasonably required for the discharge of the functions of the non-deposit-taking credit provider or the licensed credit reference bureaus.
- (2) A non-deposit-taking credit provider may obtain credit information of its customers from a licensed credit reference bureau, where such information is reasonably required for the discharge of the functions of the non-deposit-taking credit provider or the licensed credit reference bureau.
- (3) A non-deposit-taking credit provider shall not submit negative credit information of a customer or any other person to a credit reference bureau where the outstanding amount relating to the credit information does not exceed one thousand shillings.
- (4) A non-deposit-taking credit provider submitting credit information to a bureau shall ensure that such information is timely, complete and accurate.
- (5) A non-deposit-taking credit provider shall promptly rectify its record upon being notified by a person or a customer of false or inaccurate credit information submitted to a bureau.
- (6) A non-deposit-taking credit provider who intends to furnish negative information to a bureau with respect to a customer shall, in writing or through electronic means, notify the customer of the intention to submit the negative information at least thirty days before submitting the negative information to the bureau or within such shorter period as the contract between the non-deposit-taking credit provider and the customer may provide:

Provided that a shorter pre-listing notice shall not be less than seven days for loans whose repayment interval is less than thirty days.
- (7) A non-deposit-taking credit provider who has furnished credit information to a bureau shall, within thirty days from the date the information was furnished to a bureau, notify the customer that the customer's credit information has been forwarded to the bureau.
- (8) No suit, prosecution or other legal proceedings shall lie against the Bank, credit reference bureau, a non-deposit-taking credit provider or chairperson, director, member, auditor, adviser, officer or other employee or agent of the Bank, credit reference bureau or non-deposit-taking credit provider for any loss or damage caused or is likely to be caused by anything which is done or intended to be done in good faith in pursuance of these

Regulations, guidelines or directives issued hereunder, or under the Banking (Credit Reference Bureau) Regulations, 2020.

- (9) A non-deposit-taking credit provider shall ensure compliance with Data Protection Act when disclosing or sharing credit information.

Restrictions on use of credit information

- (1) A non-deposit-taking credit provider shall not use credit information obtained from a bureau for any purpose other than for reaching decisions on transactions concerning a customer, and on matters concerning an employee or a potential employee of the non-deposit-taking credit provider or for any other purpose as may be authorized under these Regulations or any other written law.
- (2) A non-deposit-taking credit provider shall not release information obtained from a credit reference bureau to any third party except as may be required under these Regulations or any other relevant written law, or to a non-deposit-taking credit provider's appointed agent for the purpose of assisting the non-deposit-taking credit provider in the recovery of any of the non-deposit-taking credit provider's debts.
- (3) A non-deposit-taking credit provider shall take measures to safeguard the security of information provided to it by a credit reference bureau, or by it to a credit reference bureau.

Business continuity

- (1) A non-deposit-taking credit provider shall put in place systems and processes for purposes of minimizing disruptions and ensuring business continuity.
- (2) Without prejudice to the generality of sub-regulation (1), a non-deposit taking credit provider shall-
 - (a) back up its business information, particularly its financial records, customer records including transaction records, reports to the Bank and other information;
 - (b) ensure that a framework is put in place to ensure business continuity even in cases of major business disruptions; and
 - (c) ensure that the business is protected from risks including cyber security attacks and fraud.

Information and technology systems

- (1) A non-deposit-taking credit provider shall use information and technology systems that are secure and reliable, and which ensure information confidentiality, integrity and availability.

- (2) A non-deposit-taking provider shall notify the bank of a change of IT system.
- (3) A non-deposit-taking provider shall, where applicable, develop an information and technology policy which shall at a minimum cover—
 - (a) data encryption standards and guidelines;
 - (b) information security guidelines;
 - (c) application security;
 - (d) network access and requirements;
 - (e) password security for mobile applications and web platforms;
 - (f) audit log management;
 - (g) application auditing and monitoring;
 - (h) software change control procedures;
 - (i) backup policy;
 - (j) disaster recovery plan; and
 - (k) interoperability capability.

PART V— CONSUMER PROTECTION

Access to transaction and credit information

- (1) A non-deposit-taking credit provider shall—
 - (a) generate and issue a receipt or any other acknowledgement of transactions carried out by or with a customer, through electronic means or any other acceptable medium;
 - (b) agree with the customer on the interval within which the non-deposit-taking credit provider shall issue him with a free loan statement detailing the principal amount advanced and owing, total amount of interest charged, paid and owing, interest rate applied from date of loan agreement and nature and amount of charges imposed;
 - (c) provide a mechanism through which a customer may from time to time access his loan statement using any convenient and easy-to-access communication channel including through digital or electronic means;
 - (d) upon request by the customer generate and issue the customer with a comprehensive statement of transactions carried out by or with the customer through a specified period of time; and
 - (e) at all times maintain updated customer's financial records.

- (2) A non-deposit-taking credit provider shall on its own motion or upon notification, promptly rectify any error in a loan statement or financial record of a customer.
- (3) A non-deposit-taking credit provider shall keep a guarantor constantly informed of the loan performance status through periodic loan statements sent to the guarantor through any convenient and verifiable means.

Customer complaints resolution

- (1) A non-deposit-taking credit provider shall establish a complaints redress mechanism, including a dedicated channel for communicating customer complaints, and ensure proper communication of this mechanism to its customers.
- (2) On receiving a complaint from a customer, a non-deposit taking credit provider shall deal with the complaint immediately and whether this is not reasonable practicable, shall within seven days of receipt, provide the complainant with a prompt acknowledgement that it has received the complaint and that it is dealing with it.
- (3) Where a complaint which is submitted orally is not resolved within forty eight hours, a non-deposit taking credit provider shall confirm to the complainant in writing, through electronic means or through other means agreeable to the complainant of the existence of the complaint and that it is still pending resolution by the institution
- (4) A customer complaint shall be resolved immediately, and where immediate resolution is not possible, within thirty days of a customer reporting a complaint to a non-deposit-taking credit provider.
- (5) A non-deposit-taking credit provider shall keep a record of all complaints received, date received, nature of complaints, number of complaints resolved, reasons for the pending complaints, time taken to resolve the complaints and the outcome of their resolution.
- (6) A non-deposit-taking credit provider shall provide the Bank with a report, in such form as the Bank may specify concerning its receipt and handling of customer complaints.

Fairness

- (1) A non-deposit-taking credit provider shall not—
 - (a) engage in unfair, deceptive, oppressive or aggressive practices such as threatening, intimidating, being violent towards, abusing, being non-responsive or humiliating a consumer;
 - (b) offer, accept or ask for bribes or other gifts as an inducement to serve a consumer;
 - (c) discriminate against any consumer on the grounds of sex, race, colour, ethnic or social origin, tribe, birth, creed or religion, political opinion, disability, pregnancy, marital status, health status, conscience, belief, culture, dress or language;

- (d) mislead or misadvise a consumer; or
 - (e) lend recklessly or negligently.
- (2) A non-deposit-taking credit provider shall not require a borrower to purchase another product as a pre-condition to access the preferred product.
- (3) Where a consumer is unable to repay a loan as per agreed terms and conditions of the loan contract and the non-deposit-taking credit provider has to incur expenses to recover the outstanding amount, the non-deposit-taking credit provider shall—
- (a) only incur expenses that are absolutely necessary for the recovery of the amount;
 - (b) provide the consumer with a detailed breakdown of the costs and expenses incurred and the justification for such costs or expenses; and
 - (c) in the case of the sale of the property of a customer or his guarantor, ensure that the sale is transparent.
- (4) Where a non-deposit-taking credit provider plans to outsource collection of a debt, the person who can collect the debt and the manner in which the debt may be collected shall be brought to the customer's attention within a reasonable time before commencement of the debt collection by the outsourced third party debt collector.
- (5) A non-deposit-taking credit provider shall confirm that the consent of a person has been sought and obtained before the person is appointed as a guarantor by a borrower.
- (6) A person shall not be held liable as a guarantor unless his consent had been sought and obtained to guarantee a loan.
- (7) A non-deposit-taking credit provider shall only seek recourse to a guarantor after all non-judicial means of recovery against the borrower have been exhausted.
- (8) A non-deposit-taking credit provider shall prior to entering into a contract with a customer explain to the customer that he has the freedom not to enter into the contract if he is not sure of the suitability of the product or service or if the terms and conditions of the contract appear onerous or if full performance of the contract by the customer shall be secured with difficulty arising from the financial position or other condition of the consumer.
- (9) A non-deposit-taking credit provider shall—
- (a) safeguard a customer's information; and
 - (b) protect a customer against fraud, misappropriation or other misuse of information or assets of the customer.
- (10) A non-deposit-taking credit provider shall notify a customer of loan performance status by as many means as possible which are likely to reach the customer instantly or without unnecessary delay and such means may include registered mail, e-mail, SMS, phone,

internet; physical delivery of the notice and such other means as would enable the customer to receive notices sent to him by the non-deposit-taking credit provider.

- (11) A non-deposit-taking credit provider shall not make a repayment demand to a guarantor or any other person unless the borrower is in default and guarantor or other person has been given a 14 days' notice of the borrower's default.

Provided that this provision does not prevent a non-deposit taking credit provider from updating a guarantor on the borrower's loan performance status.

Reliability

A non-deposit-taking credit provider shall—

- (a) update customer personal and contact records from time to time and in any case not later than two years;
- (b) provide services in a reliable manner;
- (c) use delivery and communication channels which are reliable; and
- (d) ensure that customer-facing staff are persons who are reliable and of high integrity.

Oversight of staff

A non-deposit-taking credit provider shall—

- (a) screen staff prior to appointment or on-boarding;
- (b) periodically screen staff to assure itself of integrity of the staff and that they carry out their responsibilities ethically and in compliance with the all applicable laws, regulations, guidelines, code of conduct and directives of the Bank;
- (c) exercise effective oversight over its staff and shall continuously monitor activities of staff who are in direct contact with customers or customers' information; and
- (d) take disciplinary action against any officer, employee, agent or outsourced third party service provider who, in the discharge of his responsibilities to the non-deposit taking credit provider or a customer, does not comply with all applicable laws, regulations, guidelines, code of conduct or directives of the Bank.

Transparency

- (1) A non-deposit-taking credit provider shall as a minimum:
 - (a) ensure that any information given to a consumer on among other things benefits, prices, risks and the terms and conditions; whether in writing, electronically or orally is fair, clear and transparent;
 - (b) ensure that the information in paragraph (a) is easily comprehensible so that a consumer can make an informed choice about a product or service;

- (c) ensure that the information is written in simple language and in a legible font size so that it is clear readable and easily accessible;
 - (d) where a consumer is unable to understand English and Swahili, provide an oral explanation in a language the consumer understands;
 - (e) where a consumer is unable to understand written information, explain orally to the consumer the written information;
 - (f) ensure that where an oral explanation has been provided to the consumer, the consumer shall sign as evidence that an oral explanation has been given where the nature of the transaction would necessitate such a confirmation by the consumer;
 - (g) ensure that information on its products and services is updated and current and easily available at its branches, websites and any other communication channels which it uses;
 - (h) ensure that it discloses at its branches, websites, advertisements, promotional materials and any other communication channels which it uses that it is regulated by the Central Bank of Kenya;
 - (i) disclose its true identity including its company name in the correspondence, documents and other written instruments which it issues in the course of its business generally or while dealing or contracting with a consumer; and
 - (j) educate its customers on its services and products, and in particular, make its customers aware of the need to keep their personal details and information such as their Personal Identification Number secure.
- (2) A non-deposit credit provider shall frequently notify a borrower and his guarantor by means that are convenient and cost effective of the loan statement showing all balance changes, payments, withdrawals, disbursements, costs and any other financial liability that has accrued to that account.

Key information document

A non-deposit-taking credit provider shall prepare and maintain key information documents which inform the customer of the fundamental benefits, risks and terms and conditions of the product or service, in a summarized form.

Use of different business or trade name

Where a non-deposit taking credit provider uses a business or trade name different from its company name, it shall conspicuously disclose the company name in all documents, communications and publications where the business name or trade name is used.

Customer obligations

- (1) A customer shall—
 - (a) seek and obtain the consent of a person before appointing him as his loan guarantor;
 - (b) keep the guarantor informed of status of the outstanding loan;
 - (c) keep information received confidential and not to share his password with anybody;
 - (d) have a duty to ensure that he frequently establishes from the non-deposit-taking credit provider his loan repayment status and promptly notify the non-deposit credit provider in case of any discrepancy on the repayment records kept by himself and those kept by the non-deposit credit provider;
 - (e) act promptly on communications received from a non-deposit-taking credit provider including taking calls and replying to correspondence;
 - (f) not provide misleading information to a non-deposit-taking credit provider;
 - (g) not establish a relationship with a non-deposit-taking credit provider or transact under a false name or using falsified identity documents;
 - (h) inform a non-deposit-taking credit provider of his level of indebtedness;
 - (i) give an alternative contact of another person or himself through which communication may be made, if he is unreachable;
 - (j) inform the contact person that he has been listed as a contact person and that his contact details have been shared with a non-deposit-taking credit provider;
 - (k) promptly notify a non-deposit-taking credit provider of any change in his financial status and contact details or contact details of a listed contact person.
- (2) A customer shall in the first instance lodge any complaint or dispute with the non-deposit-taking credit provider and may lodge a complaint with the Bank if the complaint or dispute is not resolved at all or to his satisfaction.

Marketing and Promotions

A non-deposit-taking credit provider shall ensure that—

- (a) all advertising and promotional materials are fair, clear and not misleading;
- (b) all printed advertising and promotional materials for financial products or services which make a reference to an interest rate, shall include the total cost of credit and whether the interest rate is per annum or per month and whether the interest rate is fixed or variable; and
- (c) the total cost of credit shall be prominently displayed in its business premises, website and other relevant publications.

False advertisements

- (1) A non-deposit-taking credit provider shall ensure that any advertisement or promotional materials that it publishes or authorizes to be published is fair, clear and does not include any false, misleading or deceptive representation, or is otherwise misleading or deceptive.
- (2) Without prejudice to the generality of sub-regulation (1) a false, misleading or deceptive representation includes—
 - (a) a representation that the credit facility has benefits or qualities that it does not in fact have;
 - (b) a representation that the non-deposit-taking credit provider has an approval, status, affiliation or connection that it does not in fact have;
 - (c) an inaccurate or incomplete representation as to the interest rate, costs or charges payable under a credit facility; and
 - (d) use of a trade or business name which confuses or misleads members of the public as to the true identity of the non-deposit taking credit provider or the credit provider.
- (3) A non-deposit-taking credit provider shall ensure that—
 - (a) all printed advertising and promotional materials for financial products or services which make a reference to an interest rate, shall include the total cost of credit and whether the interest rate is per annum or per month and whether the interest rate is fixed or variable; and
 - (b) the total cost of credit shall be prominently displayed in its business premises, website and other relevant publications.

Access and collection of customer information

A non-deposit-taking credit provider shall only access and collect such customer information as is reasonably required for a customer's credit appraisal, approval, disbursement and collection.

Loan agreement

- (1) A non-deposit-taking credit provider shall provide to a customer at the point of and upon signing a loan agreement the following documents and information—
 - (a) signed loan agreement;
 - (b) repayment schedule;
 - (c) total cost of credit; and
 - (d) the terms and conditions applicable the loan.
- (2) The loan agreement referred to in sub-regulation (1) shall contain the following information—

- (a) the loan amount;
 - (b) the loan charges and the circumstances under which they may be imposed;
 - (c) interest rate to be charged and whether on a reducing balance or not;
 - (d) all other charges applicable to the loan;
 - (e) the date on which the amount of loan and all interest, charges, fees or any other liabilities are due and payable, and how they may be calculated;
 - (f) total cost of credit which shall include the principal amount, interest, fees, charges and any other liabilities;
 - (g) agreed periodic interest rate and the annual percentage rate of interest;
 - (h) provisions allowing for early partial or full repayment of the loan without charge;
 - (i) the period within which credit information on non-performing may be submitted to a credit reference bureau;
 - (j) customer complaint handling channels and procedures; and
 - (k) such other information as is necessary for purposes of the loan agreement.
- (3) A copy of the loan agreement including the terms and conditions thereof shall be given to the customer in a clear, simple and easily accessible format and in a language that a customer understands.
 - (4) Except as is expressly provided for in a loan agreement, any variation to the terms or conditions of a contract shall be agreed upon between a non-deposit taking credit provider in the same manner as the original loan agreement.
 - (6) A non-deposit-taking credit provider shall not change its terms and conditions or have a provision in the agreement with the customer that varies any provision of the terms and conditions without at least thirty days prior notification to the customer.

Variation of pricing parameters and credit terms

- (1) A non-deposit-taking credit provider shall not change its pricing parameters without the prior written approval of the Bank.
- (2) A non-deposit-taking credit provider shall not increase charges or credit limits or have a provision in the agreement with the customer that varies the credit limit unless the non-deposit-taking credit provider has given at least thirty-days' prior notice of the intended changes to the customer and the customer has accepted the changes.
- (3) The notification under sub-regulation (2) shall clearly disclose to the customer the changes in the credit terms.

Loan repayment

- (1) For all payments received from a borrower, a non-deposit-taking credit provider shall credit a borrower's account with the amount received on the date payment is made.
- (2) The repayment amount referred to in sub-regulation (2) shall first be allocated to any interest due on the loan, then to any outstanding fees and charges on the loan and lastly to settle any due principal payment.
- (3) A borrower has the right, without advance notice and without being penalized by a non-deposit-taking credit provider, to repay a loan prior to its maturity either in whole or in part to reduce outstanding principal amount owed, interest charges or fees owed.
- (4) Subject to sub-regulation (3), where the loan is repaid in full prior to its maturity, the borrower shall not be required to pay interest for the remaining period to maturity.

Non-performing loans

- (1) A loan with specific repayment date shall be considered as non-performing if any of its contractual obligation for payment has become due and unpaid for such period as is specified in the loan agreement.
- (2) A non-deposit-taking credit provider shall specify in its credit policy the default period within which a loan may become non-performing.
- (3) A loan agreement between a non-deposit-taking credit provider and borrower shall specify the default period within which the loan may become non-performing and this shall be a key provision in the terms and conditions.

Data Protection Policies and Procedures

A non-deposit-taking credit provider shall ensure compliance with the Data Protection Act, Regulations, guidelines and guidance notes issued by Office of Data Protection Commissioner.

Consumer Protection Policies and Procedures

A non-deposit-taking credit provider's consumer protection policies and procedures shall at a minimum contain the following information-

- (a) convenient channels for communicating customer complaints and a description of how this information may be made available to the customers.

- (b) a guideline that sets out how complaints and disputes shall be handled and this shall include-
 - (i) how to lodge a complaint or dispute;
 - (ii) timeframes for making decisions regarding complaints;
 - (iii) information to be provided to complainants; and
 - (iv) options available when a complaint or dispute is not resolved.
- (c) complaints register to record complaints received, nature of complaints, complaints resolved, complaints pending resolution, form of resolution and redress given, challenges faced in resolving all complaints and communications made to complainants;
- (d) the date the complaint was made;
- (e) the name, address and telephone number of the complainant;
- (f) the nature of the complaint;
- (g) the name of the person or persons who are the subject of the complaint;
- (h) any action taken to investigate a complaint, details of the findings and the date and manner by which the complainant was informed of the result.
- (i) the complaint handling procedures which shall provide a step-by-step plan of action on how a non-deposit taking credit provider may discuss, address, and resolve the complaint and how the non-deposit taking credit provider may communicate to the consumers in the process of handling complaints.
- (j) solutions a non-deposit taking credit provider intends to offer to resolve the complaints.
- (k) how often the policy will be reviewed and at a minimum the policy shall be reviewed annually.
- (l) options provided to the consumers if the complaint is not addressed by the non-deposit taking credit provider.

Pricing Parameters

- (1) A non-deposit-taking credit provider shall develop and implement a pricing model which outlines clear pricing parameters.
- (2) The model should fulfil the following credit pricing principles and shall contain the following information—
 - (a) components of pricing clearly identified and which shall distinctly outline each element incorporated in the model including amongst others, cost of funds, cost of capital, risk premium and other charges;
 - (b) costs clearly identified and justified and which costs shall be directly related to lending and any other costs which shall be adequately supported and justified;
 - (c) risk profile of customer shall be taken into account through evaluation of each individual customer's behavior and unique characteristics enabling a non-deposit

taking credit provider to apply differential interest rates based on a customer's creditworthiness.

- (d) credit reference bureau (CRB) information shall be taken into account through incorporation of CRB scores as part of risk profiling of customers;
 - (e) all-inclusive pricing which shall be inclusive of all other charges except third party costs;
 - (f) full disclosure of the Annual Percentage Rate (APR) to be charged to a borrower shall be clearly stated and shall include the interest rate for a whole year, in addition to any monthly or periodic rate, as applied on a loan.
- (3) The Bank shall have power to change the pricing parameters of a non-deposit taking credit provider from time to time, for reasons to be stated.

PART VI— ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

Sources of funds

- (1) A non-deposit-taking credit provider shall provide to the Bank evidence and sources of funds invested or proposed to be invested in the non-deposit-taking credit business and shall demonstrate that the funds are not proceeds of crime.
- (2) No non-deposit-taking credit provider shall inject capital into his business without prior notice to the Bank and the notice shall contain—
- (a) name of shareholder/ proposed share investing;
 - (b) amount of capital to be invested;
 - (c) proposed shareholding structure after injection; showing percentage of respective shareholdings;
 - (d) ultimate beneficial owner; and
 - (e) source of the funds.

Customer identity

- (1) A non-deposit-taking credit provider shall conduct customer due diligence and shall take reasonable measures to satisfy itself as to the true identity of its customers and shall verify their identities using independent source documents.
- (2) In case of non-face-face transactions, a non-deposit-taking credit provider shall ensure that the identity document is that of the person actually transacting.
- (3) A non-deposit-taking credit provider shall guard against impersonation.

Compliance with laws on anti-money laundering and combating the financing of terrorism

- (1) A non-deposit-taking credit provider shall comply with the Proceeds of Crime and Anti-Money Laundering Act (Cap 59A), and the Prevention of Terrorism Act (Cap 59B), and the relevant Regulations and Guidelines issued thereunder.
- (2) A non-deposit-taking credit provider who fails to comply with the Proceeds of Crime and Anti-Money Laundering Act, and the Prevention of Terrorism Act, and the relevant Regulations and Guidelines issued thereunder shall be liable to assessment of penalties and other sanctions as set out in section 51B of the Act and these Regulations.

PART VII — REPORTING REQUIREMENTS AND OVERSIGHT BY THE CENTRAL BANK

Annual publication of licensed and registered non-deposit taking credit providers

The Bank shall before the thirty-first day of March in each year, publish the names and addresses of all licensed and registered non-deposit-taking credit providers in the Gazette and the Bank's website.

Reporting requirements, onsite inspection and off-site monitoring

- (1) A non-deposit-taking credit provider shall be subject to the Bank's onsite and off-site inspection, audit and monitoring and shall make such periodic reports and returns as may be specified by the Bank.
- (2) The Bank may either directly or through a duly appointed person conduct inspection of a non-deposit taking credit provider, its agent or an outsourced third-party service provider.
- (3) A non-deposit taking credit provider shall make its premises, systems, books and records readily available to the Bank, or its officers or any person appointed by the Bank for inspection, audit and other supervisory purposes.
- (4) An agent and outsourced third party service provider shall grant the Bank, or its officers or any person appointed by the Bank full access to its premises, systems, books and records as it relates to the affairs of the non-deposit-taking credit provider.
- (5) The Bank may require a non-deposit-taking credit provider to furnish it, at such time and in such manner as it may direct, with such information as the Bank may reasonably require for the proper discharge of its functions under these Regulations.

- (6) Without prejudice to sub-regulation (1) and (2), a non-deposit-taking credit provider shall submit to the Bank reports and returns on the following information within such time as the Bank may specify—
- (a) customer complaints;
 - (b) number of loans;
 - (c) annual audited financial statements;
 - (d) list of shareholders, directors and senior officers;
 - (e) borrowings by the non-deposit-taking credit providers, highlighting date of loan, name of lender, amount borrowed, interest rate charged and outstanding amounts;
 - (f) name of bank of the non-deposit taking credit provider, number of accounts and paybill numbers;
 - (g) number of agents;
 - (h) details on outsourced services;
 - (i) non-performing loans; and
 - (j) any other information as the bank may require from time to time.
- (7) A non-deposit-taking credit provider shall on or before the thirty first day of December every year submit a return to the Bank certifying its compliance with the Act and these Regulations in such manner as the Bank may specify.

Disclosure of information

The Bank may disclose any information received in the course of the performance of its duties or responsibilities under the Act or these Regulations to any financial regulatory authority, financial intelligence unit, fiscal or tax agency or fraud investigations agency within or outside Kenya, where such information is reasonably required for the proper discharge of the functions of the Bank or the requesting financial regulatory authority, fiscal or tax agency or fraud investigations agency.

Powers of the Bank to advise and direct

- (1) If, at any time, the Bank has reason to believe that—
- (a) the business of a non-deposit-taking credit provider is being conducted in a manner contrary to the requirements of the Act, other relevant written laws, these Regulations, guidelines or directives issued by the Bank or in any manner detrimental to or not in the best interests of its customers or members of the public; or
 - (b) a non-deposit-taking credit provider or any of its officers, employees, agent or outsourced service provider is engaged in any practice likely to occasion a

contravention of any of the provisions of the Act, other relevant written laws, these Regulations, guidelines or directives issued, the Bank may—

- (i) give advice and make recommendations to the non-deposit-taking credit provider with regard to the conduct of its business generally;
 - (ii) issue directions regarding measures to be taken to improve the management or business methods of the non-deposit-taking credit provider or to secure or improve compliance with the requirements of the Act, other relevant written laws, the Regulations, guidelines or directions issued; or
 - (iii) in any case to which paragraph (b) applies, issue directions to the non-deposit-taking credit provider, officer or other person to cease and desist from such practice.
- (2) The Bank may, before issuing any directions under sub-regulation (1), serve upon the non-deposit-taking credit provider, officer, employee, agent or other person, a notice of such intent specifying the reasons therefor and requiring the non-deposit-taking credit provider, officer, employee, agent or other person, within such period as may be specified in the notice, to show cause why such direction should not be issued.
- (3) A non-deposit-taking credit provider, officer, employee, agent or other person which receives any directions under the provisions of this regulation shall comply with the directions within such period as may be specified in the direction and, if so required, produce evidence of compliance.
- (4) The Bank may issue directions to non-deposit-taking credit providers generally for the better carrying out of its functions and in particular, with respect to—
 - (a) the standards to be adhered to by a non-deposit-taking credit provider in the conduct of its business; and
 - (b) guidelines to be adhered to by non-deposit-taking credit providers in order to maintain a stable and efficient financial system.

PART VIII— CODE OF CONDUCT

Objectives of the Code of Conduct

- (1) The objectives of the Code are to—
 - a) ensure sound conduct of non-deposit taking credit business;
 - b) instil confidence in the non-deposit taking credit business sub-sector;
 - c) establish standards to be adhered to by non-deposit taking credit providers; and

- d) ensure fair treatment of consumers of non-deposit taking credit business services and the public.
- (2) A non-deposit taking credit provider shall have the responsibility to adopt appropriate processes and procedures to meet the objectives of this Code.
- (3) A non-deposit taking credit provider shall conduct its business in a way that promotes the best interests of consumers and the integrity of the banking sector.

Application of the Code

The Code shall apply to a non-deposit taking credit providers, its officers, employees and any other persons acting on its behalf.

Guiding Principles

The relationship between a non-deposit taking creditor and its customers shall be guided by the principles of—

- (a) fairness;
- (b) transparency;
- (c) accountability; and
- (d) reliability.

Skill, Care and Diligence

A non-deposit taking credit provider shall—

- a) act with due skill, care and diligence towards its customers and other stakeholders;
- b) have in place appropriate safeguards against occurrences of behaviour that constitute a lack of due skill, care and diligence amounting to culpable negligence or recklessness;
- c) train its staff and agents appropriately; and
- d) apply the “fit and proper” test for its officers, employees and persons acting on its behalf.

Business Integrity

A non-deposit taking credit providers shall—

- a) observe high standards of honesty, integrity and fairness;
- b) ensure that all business transactions are carried out and recorded fairly and accurately;
- c) not alter any financial records or information of a customer; and
- d) avoid misleading and deceptive acts or representations.

Conflict of Interests

A non-deposit taking credit providers shall—

- a) avoid situations of conflict of interests, and in case a conflict arises, the non-deposit taking credit provider shall ensure the fair treatment of all its customers; and
- b) manage conflict of interests and this may require disclosure, internal rules of confidentiality, or other appropriate methods or combinations of methods.

Communicating with customers

A non-deposit taking credit providers shall—

- a) seek the necessary information about its customers' individual circumstances and financial objectives;
- b) ensure that customers are provided with accurate, timely and comprehensible information that would enable them to make informed decisions;
- c) provide information, including information about risks, required by the customer to make informed decisions; and
- d) provide timely and accurate reports to the customer about business undertaken with the customer.

Protection of customer's assets

- (1) A non-deposit taking credit providers shall protect assets of its customers over which it has control.
- (2) Customer assets shall be properly marked with identifiable marks and shall be well segregated from a non-deposit taking credit provider's own assets.
- (3) Assets shall be protected from loss and shall be easily identified in case of insolvency.

Compliance

A non-deposit taking credit providers shall—

- a) observe high standards of market conduct; and
- b) comply, in the conduct of its business activities, with all applicable laws, including, but not limited to the relevant Acts, regulations, guidelines, code of conduct, directives and orders issued thereunder, so as to promote the best interests of customers and the integrity of the non-deposit taking credit market.

Financial Resources

- (1) A non-deposit taking credit providers shall-
 - a) ensure that it maintains, at all times, adequate financial resources to meet its financial obligations;
 - b) implement appropriate risk management policies in its business.
- (2) A non-deposit taking credit provider shall not engage in excessive lending funded by debt.

Internal Affairs

A non-deposit taking credit provider shall—

- a) manage its business in a responsible and sustainable manner while ensuring that adequate controls are maintained; and
- b) ensure that, at all times, proper systems and procedures are in place in respect of operations, record keeping, human resources, training, compliance and such other matters as the Bank may deem necessary.

Market conduct obligations

In order to promote good market conduct practices, a non-deposit taking credit provider whether directly through its officers, employees, agents or outsourced third party service provider shall—

- (a) act fairly, reasonably and ethically towards a customer;
- (b) provide effective and adequate disclosure of information;
- (c) provide terms and conditions of products and services;
- (d) provide information in a clear, plain and understandable language format;
- (e) ensure that its staff members attend to customer transactions and enquiries promptly;
- (f) provide to a customer, the requisite before the implementation of changes in the terms and conditions, interest rates, fees and charges, the discontinuation of products and services and the relocation of premises;
- (g) acknowledge complaint received within the requisite period and attend to the complaint within the prescribed period;
- (h) take reasonable measures to attend to the physical needs of persons with
- (i) disabilities;
- (j) treat customer information as private and confidential and may only disclose the information as prescribed;
- (k) not unfairly discriminate against a customer;

- (l) ensure that all marketing and promotional material sent to a customer for advertising purposes are clear, fair, reasonable and not misleading;
- (m) not to use customer information for marketing and promotional purposes when the customer has opted out of receiving marketing communication;
- (n) provide a customer with information on total cost of credit including interest to be charged, relevant fees and charges for the services and products that customer has chosen or is enquiring about;
- (o) inform a customer, at the time of establishing a business relationship, of his rights and obligations;
- (p) provide to a customer or make available on request, regular statements of account to enable a customer to manage his loan account and verify entries on such account;
- (q) take immediate steps to prevent access or misuse of a customer's account once notified by a customer of any fraud, attempted fraud, loss of a card or breach of password confidentiality;
- (r) ensure that all products and services comply with relevant laws and regulations and the standards set out in this Code;
- (s) train its officers, employees, agent and other persons on how to comply with these obligations;
- (t) ensure that information on products and services is updated and current;
- (u) provide affordable credit services, taking into account the prevailing market conditions in the banking sector and the domestic economic situation of the country; and
- (v) notify a customer of his right to contact the Bank if he is dissatisfied with dispute or complaints resolution process adopted by the non-deposit taking credit provider.

Compliance with the Code

- (1) A non-deposit taking credit provider shall comply with the Code.
- (2) The Board and other officers of a non-deposit taking credit provider—
 - a) shall be responsible for setting the tone and guiding business practices so that all employees of the non-deposit taking credit provider and other persons acting on its behalf shall contribute to sound business conduct; and
 - b) keep appropriate records of any arrangements made to comply with the Code.

Non-compliance with the Code shall be enforceable in accordance with the administrative sanctions provided for in these Regulations

PART IX— ENFORCEMENT

Duty to comply

Every non-deposit-taking credit provider or any other relevant person shall comply with the provisions of the Act, other relevant written laws, these Regulations, and any other Regulation, guidelines, code of conduct, directive, order or condition imposed by the Bank.

Enforcement and administrative sanctions

The Bank may impose any or all of the following administrative sanctions against a non-deposit-taking credit provider or any other relevant person who violates, fails or refuses to comply with the provisions of the Act, other relevant written laws, these Regulations, and any other Regulation, guidelines, code of conduct, directive, order or condition imposed by the Bank:

- (i) monetary penalty which shall not exceed two million shillings, or three times the gross amount of the monetary gain made or loss avoided by the failure or refusal to comply, whichever is higher;
- (ii) additional penalties not exceeding ten thousand shillings in each case for each day or part thereof during which such failure or refusal continues;
- (iii) direct a non-deposit-taking credit provider to take administrative or disciplinary action, suspend or dismiss from office of the non-compliant non-deposit-taking credit provider's director, officer, employee, agent or outsourced service provider;
- (iv) disqualify a significant shareholder, director or officer from holding any position or office in any non-deposit-taking credit provider and any entity licensed by the Bank for a period of five years;
- (v) undertake more frequent inspections of that non-deposit-taking credit provider;
- (vi) order the non-deposit-taking credit provider to submit to the Bank, within forty-five days, a plan to resolve all deficiencies to the satisfaction of the Bank;
- (vii) prohibit a non-deposit-taking credit provider from granting new loans;
- (viii) prohibit a non-deposit-taking credit provider from using a specified delivery channel;
- (ix) prohibit a non-deposit-taking credit provider from using a specified agent or person in the delivery of its services;
- (x) prohibit a non-deposit-taking credit provider from carrying on certain permissible activities;
- (xi) prohibit a non-deposit-taking credit provider from borrowing new loans;
- (xii) direct a non-deposit-taking credit provider to terminate its contract with an agent or outsourced third party service provider;
- (xiii) suspend or revoke a licence or registration; or
- (xiv) any other action as the Bank may consider appropriate.

Factors to consider in determining an administrative sanction

- (1) In assessing and determining the administrative sanction to be applied in respect of a particular violation or non-compliance, the Bank may consider the following factors—
 - (a) whether the person to be sanctioned or penalized is a natural person or corporate body;
 - (b) the nature of the legal or regulatory requirement, direction guideline, order or condition which has been violated or not complied with;
 - (c) the nature and severity of the violation;
 - (d) the impact of the violation on the non-deposit-taking credit provider, its customer or other person;
 - (e) the benefits that could be or may have been derived from the violation;
 - (f) the amount of financial loss or other losses suffered or likely to be suffered by the non-deposit-taking credit provider, customer or other person;
 - (g) the circumstances under which the violation occurred;
 - (h) the financial condition of the non-deposit-taking credit provider or any other person at fault including in terms of size, assets, capital, loan portfolio, annual turnover and any other relevant financial condition;
 - (i) the frequency of violation of the same law, other laws, direction, guideline, order or condition;
 - (j) general level of compliance with the law by the non-deposit-taking credit provider or any other person as demonstrated over a period of time;
 - (k) the public interest affected by the violation;
 - (l) the identity, rank, job description of the officer or employee of the non-deposit-taking credit provider, or any other person involved;
 - (m) whether the violation has been rectified or remedied or can easily be rectified or remedied; and
 - (n) such other relevant factor as the Bank may consider.
- (2) The provisions of sub-regulation (1) may be used as a guide in determining the appropriate administrative sanction to be imposed, but shall not obligate the Bank to impose a less severe administrative sanction or penalty than what is reasonable.

Determination of sanctions on case-by case basis

The determination of administrative sanctions shall be carried out on a case-by-case basis and different sanctions may be imposed for different violations or against different non-deposit-taking credit providers or any other person:

Provided that any difference in the treatment of non-deposit-taking credit providers or any other person shall be justified by the Bank.

Notice to Show Cause

- (1) If the Bank determines that a non-deposit-taking credit provider or any other person has violated, failed or refused to comply with any provision of the Act, other relevant written laws, these Regulations, and any other Regulations, guidelines, code of conduct, directive, order or condition imposed by the Bank, the Bank may notify the non-deposit-taking credit provider or the person of the violation or non-compliance and invite the non-deposit-taking credit provider or the person to show cause why an administrative sanction should not be imposed.
- (2) A Notice to Show Cause under sub-regulation (1) shall—
 - (a) describe in general terms the facts or circumstances that constitute the violation or non-compliance;
 - (b) state the legal or regulatory requirement which was violated or the direction, order, guideline or condition which was not complied with;
 - (c) describe the person or entity which may have been involved in the violation if such information is within the knowledge of the Bank;
 - (d) notify the non-deposit-taking credit provider or any other person of the intention of the Bank to assess and impose an administrative sanction;
 - (e) specify the proposed administrative sanction;
 - (f) state the period within which the Notice to Show Cause shall be responded to; which period shall not be less than fourteen days; and
 - (g) contain any other relevant information which the Bank may find necessary.

Consideration of representations received

Upon receipt of any representations from a non-deposit-taking credit provider or any other person within the specified period, the Bank may consider the representations made, the principles or factors prescribed in these Regulations and any other available information in determining—

- (a) whether an administrative sanction should be imposed against the non-deposit-taking credit provider or any other person;
- (b) the appropriate administrative sanction to be imposed;
- (c) in the case of a monetary penalty, the amount of monetary penalty to be levied, and whether the penalty should be paid by the non-deposit-taking credit provider or any other person; and
- (d) any other relevant matter.

Representation not made or is made out of time

- (1) Where the Bank has not received any representation from the non-deposit-taking credit provider, the Bank may proceed to determine and impose the appropriate administrative sanction.
- (2) Where the Bank receives a representation out of time, the Bank may nevertheless for good reasons consider the representation and proceed to determine the appropriate administrative sanction to impose.
- (3) The Bank may upon request by a non-deposit-taking credit provider or any other relevant person extend the time within which the notice to show cause may be responded to.

Notification on determination of administrative sanction

Upon assessment and determination of an administrative sanction, the Bank shall notify the non-deposit-taking credit provider, or any other relevant person of the administrative sanction and shall state—

- (a) the violations for which the determination has been made;
- (b) the nature of the administrative sanction imposed;
- (c) the effective date of the administrative sanction, where applicable;
- (d) the amount of monetary penalty that has been assessed and imposed, in the case of a monetary penalty;
- (e) in case of a monetary penalty, the timeframe within which it should be paid to the Bank, and consequences of non-payment;
- (f) any additional sanction or penalty that may apply if the violation continues or if the monetary penalty is not paid within the specified period; and
- (g) any other relevant information.

Sanction not to affect other forms of sanctions

The imposition of one administrative sanction against a non-deposit-taking credit provider or any other relevant person shall not bar the Bank from imposing any other or additional sanctions as is provided for under the Act, these Regulations or any other written law.

Rectification of the violation

The Bank may in a Notice to Show Cause or in any other communication require a non-deposit-taking credit provider or any other relevant person—

- (a) to desist from any act or omission in order to end any continued violation of the Act, other written law, these Regulations, or any other regulations, code of conduct or guidelines issued under the Act, or any direction, order or condition imposed by the Bank; or
- (b) to take any action to rectify or remedy any violation which has occurred.

Period within which rectification is to be made

Where the Bank requires a non-deposit-taking credit provider or any other relevant person to take a specific action to rectify or remedy a violation, the Bank shall specify the period within which the remedial action should be taken;

Provided that a non-deposit-taking credit provider or any other relevant person may on their own motion, rectify or remedy any violation.

PART X — REVIEW

Review

- (1) A non-deposit-taking credit provider or any other relevant person aggrieved by the decision of the Bank under these Regulations, may within fourteen days from the date of notification of the Bank's decision request the Bank to review the decision.
- (2) The request for review under this Regulation shall not suspend the effective date of the Bank's decision, including the commencement of an administrative sanction or requirement for a non-deposit-taking credit provider or any other relevant person to pay a monetary penalty unless the non-deposit-taking credit provider or any other relevant person requests the Bank for such suspension pending the determination of the request for review and the Bank has suspended the commencement of its decision.

- (3) Any request for the suspension of the commencement of an administrative sanction shall be made before the effective date of the administrative sanction.

Grounds for review

A request for review under these Regulations may be based on any of the following grounds—

- (a) the violation did not take place;
- (b) new facts have emerged which were hitherto not there but have a direct bearing on the findings on the violation; and
- (c) the aggrieved party was not given an opportunity to show cause why the administrative sanction should not be imposed.

Request for additional information

The Bank may request the applicant to submit such additional information as the Bank may require to enable it determine the request for review.

Determination of the request for review

- (1) The Bank may within thirty days from the date of receipt of the request for review or any requested additional information, whichever is later, consider and determine the request for review.
- (2) The Bank shall if so requested by the non-deposit-taking credit provider or any other relevant person, invite the non-deposit-taking credit provider or any other relevant person for a meeting to hear representations on the request for review.

Communication of decision

The Bank shall in writing inform the non-deposit-taking credit provider or any other relevant person of its decision on the review and state the grounds for its decision.

PART XI— OTHER PROVISIONS

Aggregation of monetary penalties

A non-deposit-taking credit provider or any other relevant person who has violated several provisions of the Act, other relevant written laws, these Regulations, any other Regulation, code

of conduct or guidelines issued under the Act or any direction, order or condition imposed by the Bank may be penalized for each and every violation.

Application of monetary penalty to each violation.

- (1) Where the Bank assesses monetary penalties for violation or non-compliance, the monetary penalties prescribed in these Regulations shall apply to each and every violation and assessment of the penalty may be carried out for each and every single violation.
- (2) Any unpaid monetary penalty shall constitute a civil debt and may be recovered by the Bank through any lawful process.

Voluntary liquidation of business

- (1) A non-deposit-taking credit provider may, with the approval of the Bank, voluntarily liquidate or close its business if it is able to meet all its liabilities.
- (2) An application for the Bank's approval for the purposes of sub-regulation (1) shall be in such form as may be specify.
- (3) The Bank may, upon receipt of an application under sub-regulation (2), approve the application if satisfied as to the solvency of the non-deposit-taking credit provider.
- (4) Where the Bank approves an application by a non-deposit-taking credit provider under this Regulation, such non-deposit-taking credit provider shall forthwith cease all its operations except such activities as are incidental to the orderly realization, conservation and preservation of its assets and settlement of its obligations and these shall be subject to such directions as the Bank may issue.
- (5) The Bank shall upon approval of a voluntary liquidation or closure, follow up with the non-deposit-taking credit provider to ensure smooth execution of the liquidation process.
- (6) The Bank shall upon granting an approval for voluntary liquidation or closure, publish in the gazette a notice to the effect that the non-deposit-taking credit provider is in the process of closing its business and shall not engage in any new business activities other than recovery of its loans and paying of its liabilities.
- (7) The Bank shall publish in the gazette a notice to the effect that voluntary liquidation or closure, has been completed and the licence or registration has been revoked.

Transition

- (1) A person who, at the commencement of these Regulations, was conducting non-deposit-taking credit business which is not regulated under any other written law shall apply to the Bank for a licence within six months of publication of these Regulations.
- (2) An applicant under sub-regulation (1) may continue to conduct non-deposit-taking credit business pending determination of the application subject to the Act, these Regulations and any conditions issued by the Bank.
- (3) A non-deposit-taking credit provider licensed under the Central Bank of Kenya (Digital Credit Providers) Regulations, 2022 shall not be affected by Registration requirements in these Regulations.
- (4) Licence applications pending before the Bank at the commencement of these Regulations shall be processed in accordance with Part II or Part III of these Regulations, as the case may be.
- (5) A non-deposit-taking credit provider licensed under Central Bank of Kenya (Digital Credit Providers) Regulations, 2022 shall continue to operate as if licensed under these Regulations.
- (6) Any right that accrued or liability that was incurred under the Central Bank of Kenya (Digital Credit Providers) Regulations, 2022 shall continue to exist as if the right accrued or the liability was incurred under these Regulations.

Repeal

Central Bank of Kenya (Digital Credit Providers) Regulations, 2022 are repealed.

FIRST SCHEDULE

FORM CBK NDTCP 1

APPLICATION FOR A LICENCE TO CONDUCT THE BUSINESS OF A NON-DEPOSIT-TAKING CREDIT PROVIDER

NB: This form should be submitted, duly completed, accompanied by the complete set of documents required under Part II of these regulations

1. Name of Non-deposit-taking Credit Provider
.....
2. Physical Address of Head Office: L.R. No.....
Street: Building & Town/City.....
3. Postal Address and Postal Code
Telephone No: P.I.N.:
E-mail address
4. Date of Incorporation Certificate Reg. No.....
5. Former name(s) (if any) by which the non-deposit-taking credit provider has been known
6. Particulars of shareholding:

<i>Name of shareholder(s)</i>	<i>Postal Address</i>	<i>PIN No. & Identification No.</i>	<i>Incorporation or Registration Details</i>	<i>No. of shares held/allocated</i>	<i>Name and address of Beneficial Owner of Shares</i>

7. Particulars of Officers:

A. Directors

	<i>Name of Proposed Director</i>	<i>Age and Nationality</i>	<i>Proposed Capacity (Executive /Non-Executive)</i>	<i>ID No./ Passport No.</i>	<i>Qualification (academic and professional)</i>	<i>Postal and Email address</i>	<i>Tele-phone contacts</i>	<i>Experience /previous employment</i>	<i>Other Current Director ship (s)</i>
1.									
2.									
3.									
4.									

(Attach all necessary supportive documentation; please indicate N/A where requested details are not applicable)

B. Senior Officers

	<i>Name of Proposed Senior Officer</i>	<i>Age and Nationality</i>	<i>Proposed Designation</i>	<i>ID No./ Passport No.</i>	<i>Qualification (academic and professional)</i>	<i>Postal and Email address</i>	<i>Telephone contacts</i>	<i>Experience /previous employment</i>	<i>Current Position</i>
1.									
2.									
3.									
4.									

(Attach all necessary supportive documentation; please indicate N/A where requested details are not applicable)

Names of the proposed non-deposit-taking credit provider's:

a. Bankers, branch and their address

.....
.....

b. Name of law firm and their address

.....
.....

c. Name of Corporation Secretary and their address

.....
.....

9. Sources of funds for the proposed business

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

10. Does the non-deposit-taking credit provider hold, or has it ever held any authority from a supervisory body to carry on any business activity in Kenya or elsewhere?

.....
.....

If any such authority has been revoked, give particulars

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

11. Has the non-deposit-taking credit provider been put under receivership in the past or made any compromise or arrangement with its creditors in the past or otherwise failed to satisfy creditors in full?

..... If so,
give particulars

12. Has the non-deposit-taking credit provider been the subject of investigation by a government agency during the last three years?

If YES, give particulars

DECLARATION

We, the undersigned, being directors of the non-deposit-taking credit provider, declare that to the best of our knowledge and belief, the information contained herein is complete and accurate.

We also certify that the capital to be invested in the non-deposit-taking credit provider is not from proceeds of crime.

Director (Name)

Signature..... Date

Director (Name)

Signature Date

FORM CBK NDTCP 2

FIT AND PROPER FORM FOR DIRECTORS, CHIEF EXECUTIVE OFFICER AND SENIOR OFFICERS

NB: This form should be duly completed, accompanied by the complete set of documents required under Part II and submitted to the Bank.

1. NON-DEPOSIT-TAKING CREDIT PROVIDER

Name

Type

Proposed position

2. PERSONAL INFORMATION

(a) Surname Other Names

.....

(b) Previous Names (if any) by which you have been known:

.....

.....

Reasons for change of names

(c) Year and Place of birth:

(d) Nationality and how acquired

(e) Personal Identification Number (PIN)

(f) (i) Identification Card number and date of issue

(ii) Passport number, place and date of issue

(g) Postal Address:

(h) Physical Address:

(i) Telephone numbers:

Educational Qualifications

	<i>Qualifications</i>	<i>Year Obtained</i>	<i>Examining Body</i>	<i>Grade Obtained</i>
1.				
2.				
3.				

Professional Qualifications and years obtained

	<i>Qualifications</i>	<i>Year Obtained</i>	<i>Examining Body</i>	<i>Grade Obtained</i>
1.				
2.				
3.				

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

.....

.....

.....

(j) Responsibilities of Proposed position

.....

.....

.....

3. EMPLOYMENT/ BUSINESS RECORD

<i>Period</i>	<i>Name of Employer/ Business and</i>	<i>Position Held & Dates</i>	<i>Responsibilities</i>	<i>Reasons for Leaving (where applicable)</i>

4. DESCRIPTION OF PAST AND PRESENT ACTIVITIES IN KENYA AND ABROAD

4.1 SHAREHOLDING (DIRECTLY OWNED OR THROUGH NOMINEES)

<i>Company's Name</i>	<i>Certificate of registration No.</i>	<i>Number of Shares held</i>	<i>% of Shareholding</i>	<i>Name and address of Beneficial Owner of shares</i>

4.2 DIRECTORSHIPS

<i>Company's Name</i>	<i>Certificate of registration No.</i>	<i>Executive or Nonexecutive</i>	<i>Position held</i>	<i>Date of appointment</i>	<i>Reasons for leaving</i>

4.3 MEMBERSHIP TO PROFESSIONAL BODIES

<i>Name of the institution</i>	<i>Membership No.</i>	<i>Position held</i>	<i>Current status of membership</i>	<i>Reasons for leaving</i>

5. BORROWINGS

5.1 Have you ever defaulted in your financial obligations in the last five years?

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.....
.....

If yes, give details.....

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 ever been disqualified, under any legislation or regulation from acting as a director or serving in a managerial capacity?

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

5.4 Have you, in any country, ever been dismissed from any office or employment, or been asked to resign or resigned from employment or position of trust or fiduciary appointment? If so give particulars

.....
.....

5.5 Have you ever been diagnosed as being mentally unfit or of unsound mind?

.....
.....

5.6 Have you ever been adjudged bankrupt?

.....

If so, give particulars

.....
.....

.....
.....
5.7 Have you ever been convicted of fraud or theft by a court of law in any country?

If so, give particulars

5.8 Has any entity with which you were associated as a director, shareholder or manager in any country been in financial distress, made any compromise or arrangement with its creditors, been wound up or otherwise ceased business either while you were associated with it or within three years after you ceased to be associated with it?

If so, give particulars

.....
5.9 Indicate the names, postal and e-mail addresses, telephone numbers and positions of at least 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.

	<i>Name of Referee</i>	<i>Postal Address</i>	<i>E-mail address</i>	<i>Tel no. (s)</i>	<i>Position (where applicable)</i>	<i>Relationship with applicant</i>
1						
2						
3						

5.10 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

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

6. DECLARATION

I am aware that it is an offence to knowingly provide any information, which is false or misleading. I am also aware that omitting material information intentionally shall be construed to be an offence.

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 Bank should be aware.

I undertake to inform the Bank of any material changes to the information provided herein:

NAME..... POSITION HELD

DATED..... AT THIS DAY OF.....

SIGNED.....

(Applicant)

(This declaration must be signed in the presence of the witness named below)

WITNESSED BEFORE ME:

COMMISSIONER FOR OATHS/MAGISTRATE

Name:.....

Signature:

Address:

Date and Stamp:

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.

.....

FORM CBK NDTCP 3

FIT AND PROPER FORM FOR SIGNIFICANT SHAREHOLDERS

NB: This form should be duly completed, accompanied by the complete set of documents provided under Part III.

1. NON-DEPOSIT-TAKING CREDIT PROVIDER

Name.....

.....

Registration No.

.....

2. INFORMATION

(a) Name of the corporate body/individual

.....

(b) Previous names (if any) by which you have been known

.....

(c) Date of incorporation/birth

.....

(d) Country of incorporation/birth

.....

(e) Registration No./Identification No./Passport No.

.....

(f) Personal Identification No./Tax Registration No.

.....

(g) Contacts details

(h) Name(s) of your bankers over the last 5 years

.....

.....

.....

3. DESCRIPTION OF PAST AND PRESENT ACTIVITIES IN KENYA AND ABROAD

3.1 SOURCES OF FUNDS

1. 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 non-deposit-taking credit provider.

(a)

(b)

(c)

2. Declaration on the sources of funds

Please provide a sworn statement that the funds that you, as a shareholder, would like to invest or use in the acquisition of shares in the non-deposit-taking credit provider are not from proceeds of crime.

4. DECLARATION

I am aware that it is an offence to knowingly provide any information, which is false or misleading. I am also aware that omitting material information intentionally shall be construed to be an offence.

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 Bank should be aware.

I undertake to inform the Bank of any material changes to the information provided herein

NAME:

DATED AT:..... THIS..... DAY OF..... 20.....

WITNESSED BEFORE ME:

SIGNED (Applicant)

COMMISSIONER FOR OATHS/MAGISTRATE

Name:

Signature:

Address:

Made on 20.....

SECOND SCHEDULE

FEES	Ksh.
a) Application for a licence or registration	100,000
b) On the granting of a licence and annually thereafter	500,000
c) On the granting of a certificate of registration and annually thereafter	250,000

THIRD SCHEDULE

PART A

CRITERIA FOR DETERMINING PROFESSIONAL AND MORAL SUITABILITY OF DIRECTORS AND SENIOR OFFICERS

(a) For the purposes of determining the professional and moral suitability of persons, proposed to be directors and senior officers of a non-deposit-taking credit provider, the Bank shall have regard to the following qualities, in so far as they are reasonably

determinable—

- (i) possession of relevant qualification, knowledge, skills and experience;
- (ii) ability to recommend and implement sound practices based on previous business experience;
- (iii) ability to provide objective advice;
- (iv) ability to avoid conflicts of interest in activities and commitments with other organizations.

(b) Without prejudice to the generality of the provisions of paragraph (a), the Bank, may have regard to the present and previous conduct and activities of the person concerned in business or financial matters and, in particular, to any evidence that such person —

- (i) has been convicted of an offence of fraud or any other offence of which dishonesty is an element;
- (ii) has contravened the provisions of any law designed for the protection of members of the public against financial loss due to the dishonesty or incompetence of or malpractices;
- (iii) was a director or a senior officer of an institution that has been liquidated or is under liquidation or statutory management;
- (iv) has taken part in any business practices that, in the opinion of the Bank, were fraudulent, prejudicial or otherwise improper (whether unlawful or not);
- (v) has taken part in or been associated with any other business practices as would, or has otherwise conducted himself in such manner as to cast doubt on his competence and soundness of judgment;
- (vi) has defaulted in the repayment of a loan for three consecutive months advanced by a licensed financial institution; and
- (vii) has been adjudged bankrupt.

(c) The Bank may request any person to furnish such additional information as may be necessary in determining the professional or moral suitability of the person.

PART B

CRITERIA FOR DETERMINING MORAL SUITABILITY OF SIGNIFICANT SHAREHOLDERS

(a) For the purposes of determining the moral suitability of significant shareholders of a non-deposit-taking credit provider the Bank shall have regard to the previous conduct and activities of the significant shareholder concerned in business or financial matters and, in particular, to any evidence that such person—

(i) has been convicted of the offence of fraud or any other offence of which dishonesty is an element;

(ii) has contravened the provisions of any law designed for the protection of members of the public against financial loss due to the dishonesty or malpractices by persons engaged in the provision of banking, insurance, investment or other financial services.

(b) Where the significant shareholder is a corporate entity, its directors and senior officers shall satisfy the criterion specified in paragraph (a) above.

(c) The Bank may request any person or corporate entity to furnish such information as may be necessary in determining the moral suitability of significant shareholders.

Made on the of, 2025.

KAMAU THUGGE,
Governor, Central Bank of Kenya.