GOVERNMENT NOTICE NO. 40

FINANCIAL SERVICES ACT

(NO. 26 OF 2010)

FINANCIAL SERVICES (LICENSING AND APPROVAL REQUIREMENTS FOI DEPOSIT TAKING MICROFINANCE INSTITUTIONS) DIRECTIVE, 2014

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IN EXERCISE of the powers conferred by section 21(5) of the Financial Services Act, 2010, I, CHARLES S. R. CHUKA, Registrar of Financial Institutions, issue the following Directive—

PART I— PRELIMINARY

Citation

1. This Directive may be cited as the Financial Services (Licensing and Approval Requirements for Deposit Taking Microfinance Institutions) Directive, 2014.

Interpretation

2. In this Directive unless the context otherwise require—

"applicant" means a shareholder of a proposed deposit taking microfinance institution for which an application for a deposit taking microfinance business licence or approval has been submitted to the Registrar;

"home country supervisory authority" means the competent authority that supervises institutions engaged in deposit taking microfinance business in the country where the head office of a foreign applicant is located;

"institution" means a deposit taking microfinance institution; and

"Registrar" means the Registrar of Financial Institutions appointed under the Act.

PART II—OBJECTIVES

Objectives

3. The objectives of this Directive are to—

(*a*) establish licensing and approval requirements for institutions;

(*b*) specify information required by the Registrar in assessing licensing or approval applications for institutions; and

(*c*) ensure that deposit taking microfinance business licence or approval applications are objectively and consistently evaluated.

PART III—LICENSING OR APPROVAL

Eligibility

4.—(1) Only a company limited by shares shall be eligible to apply for a licence or approval under this Directive.

(2) An application for a licence or approval to conduct deposit taking microfinance business shall be—

(*a*) made to the Registrar in the prescribed Form set out in the First Schedule hereto; and

(*b*) accompanied by a non-refundable application fee as set out in the Second Schedule to this Directive in form of a bank certified cheque payable to the Reserve Bank of Malawi.

Licence or approval application

5.—(1) An applicant for a licence or approval under this Directive shall provide the following information in support of the application—

(*a*) a certificate of incorporation and copies of Memorandum and Articles of Association of the applicant;

(*b*) the Fit and Proper Questionnaire set out in the Third Schedule to this Directive for the chief executive officer, chief financial officer, chief operating officer, shareholders and board of directors;

(*c*) a three (3) year business plan of the applicant including vision, mission statement, scope and nature of business operations, and financial projections, however in case of an application for approval, the applicant shall include description and rationale of services to be offered and presentations of the applicant's capacity to render such services;

(*d*) audited financial statements of the promoter or principal shareholders for the past three (3) years, in case of an application for a licence, or audited financial statements for the past three (3) years, where applicable, in case of application for approval

(*e*) written documentation of the applicant's risk management systems, and the applicant's ability to identify, measure, monitor and control the level and types of risks assumed;

(*f*) evidence, such as financial statements and bank statements, that the applicant has a minimum paid up capital of two hundred and fifty million Kwacha (K250.0 million)

(*g*) a copy of the resolution of the applicant's board of directors approving the application for a deposit taking microfinance business licence or approval; and

(*h*) in the case of an applicant that is already licensed in another country, a letter from the home country supervisory authority.

(2) Where the information submitted under subparagraph (1) is not adequate, the Registrar may in writing request the applicant to submit additional information.

PART IV—APPROVAL PROCESS

Approval criteria

6.—(1) In considering an application for a deposit taking microfinance business licence or approval, the Registrar shall take into account the following—

(*a*) whether the applicant has submitted all the information required under paragraph 5;

(*b*) whether the applicant has fulfilled all the licensing or approval requirements as stipulated in the Act, the Microfinance Act, 2010 and the various prudential directives;

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(*c*) whether the proposed activities, services and products are permissible under the written laws;

(*d*) the applicant's business plan;

(*e*) the legal structure of the proposed applicant;

(*f*) the applicant's demonstrated commitment to good corporate governance practices; and

(*g*) the risk management systems to be adopted.

(2) The Registrar may in writing invite an applicant for an interview, and the invitation shall state specific objectives of the interview.

Grant or denial of a licence or approval

7.—(1) The Registrar shall communicate to the applicant the outcome of the application within sixty (60) days of receipt of a complete application.

(2) Where the Registrar approves an application for a licence, the Registrar shall issue a licence to the applicant as set out in Form A of the Fourth Schedule to this Directive.

(3) Where the Registrar grants an approval for an applicant to operate a deposit taking microfinance business, the Registrar shall issue a letter of approval as prescribed in Form B of the Fourth Schedule to this Directive.

(4) The Registrar shall enter into the microfinance register, for each licensed or approved institution the following minimum information—

(*a*) name of licensed or approved institution;

(*b*) licence or approval number;

(*c*) physical and postal address of the entity;

(*d*) date of licensing and conditions, if any;

(e) type of business;

(*f*) list of shareholders;

(*g*) board members and their residential status;

(*h*) executive management;

(*i*) name of auditors;

(*j*) location of head office; and

(*k*) number of branches held by the licensee.

(5) The Registrar shall make public the names of all licensed or approved institutions through print and electronic media.

(6) Where the Registrar has not granted an application for a licence or approval—

(*a*) the Registrar shall communicate in writing to the applicant, the reasons for the decision; and

(*b*) the applicant may appeal to the Financial Services Appeals Committee within twenty one (21) working days of receiving the communication.

PART V—POST APPROVAL PROCESS

Commencement of business

8.—(1) A licensed or approved institution shall commence business within twelve (12) months from the date of the issuance of its licence or grant of approval.

(2) Prior to the commencement of operations by a licensed or approved institution, the Registrar shall inspect its premises to ascertain suitability in accordance with the Microfinance (Premises Inspection Requirements for Deposit Taking Microfinance institutions) Directive, 2014.

FIRST SCHEDULE

FORM (para. 4(2)(*a*))

APPLICATION FOR A LICENCE /APPROVAL TO CARY OUT DEPOSIT TAKING MICROFINANCE INSTITUTION BUSINESS IN MALAWI

(Where space provided is not enough, please provide the extra information on additional sheets).

1. Name of the Applicant:.....
2. Physical address of the principal place business of the Applicant:.....
   .....
3. Postal address of the Applicant's principal place of business: .....
   .....
4. Telephone number of the Applicant's principal place of business: .....
5. Present legal structure:.....
   .....
6. Particulars of shareholding

Name	*Nationality*	*Address*	*Percentage Share Ownership*	*Source of Funds*

7. Date of incorporation: .....
8. Certificate number: .....
9 (*a*) Names of places of business in Malawi and start date and the number of years each has been established and has conducted or carried out business

Place of Business	*Start Date*	*Years in operation*
1.		
2.		
3.		
4.		
5.		
6.		

(*b*) Names of other countries where the institution operates: .....

.....

10. Former name(s) by which the institution has been known:.....

.....

11. Details of Total Capital:

(*a*) Nominal value: .....

(*b*) Paid up value: .....

12. (*a*) Provide the following for each Director:—

Name.....

Nationality.....

Address.....

Please provide copy of Curriculum Vitae

(*b*) Provide the following for each of the Executive Officers:

Name:.....

Designation:.....

Nationality:.....

Age:.....

Please provide copy of Curriculum Vitae

13. BORROWINGS: provide details of the following:

Name of lending institution:.....

Type and purpose of facility:.....

Date of offer.....

Terms of offer:.....

Security offered:.....

Value of security:.....

Current outstanding balance:.....

14. Bankers:

Name of Banker	*Address*	*Details of Bank Account*
1.		
2.		
3.		
4.		

15. Does the applicant hold, or has it ever held any authority from a supervisory body to carry out any business activity in Malawi or elsewhere?

Yes /No

If yes, give particulars .....

If any such authority has been revoked, give particulars .....

.....

16. Has the applicant 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?

Yes /No

If yes, give particulars.....

17. Is an inspector or other authorized officer of any government ministry, department or agency, professional association or other regulatory body investigating or has such an investigation ever previously taken place into the affairs of the applicant?

Yes /No

If yes, give particulars.....

18. Is the applicant currently engaged or does it expect to be involved in any litigation which may have a material effect on the resources of the Institution?

Yes /No

If yes, give particulars.....

19. Is the applicant engaged or does it expect to be engaged in any business relationship with any of its officers or significant shareholders?

Yes /No

If yes, give particulars.....

20. FINANCIAL SERVICES:

(*a*) List and briefly describe current and envisaged financial products

Financial Product	*Description*

(*b*) Describe the methodologies of delivering products and services

.....

.....

.....

(*c*) Describe polices for monitoring & recovering delinquent loans

.....

.....

.....

.....

21. Please enclose a non-refundable fee of K150,000.00 if the applicant is applying for licence, or K50,000.00 if the applicant is applying for an approval. This amount should be in a form of a cheque.

22. Please provide the following information in support of the application —

(*a*) a certificate of incorporation and copies of Memorandum and Articles of Association of the applicant;

(*b*) the Fit and Proper Questionnaire set out in the Third Schedule to this Directive for the chief executive officer, chief financial officer, chief operating officer, shareholders and board of directors;

(*c*) a three (3) year business plan of the applicant including vision, mission statment, scope and nature of business operations, and financial projections: Provided that in case of an application for approval, the applicant shall include description and rationale of services to be offered and presentations of the applicant's capacity to render such services;

(*d*) audited financial statements of the promoter or principal shareholders for the past three (3) years, in case of an application for a licence, or audited financial statements for the past three (3) years, where applicable, in case of application for approval;

(*e*) written documentation of the applicant's risk management systems, and the applicant's ability to identify, measure, monitor and control the level and types of risks assumed;

(*f*) evidence, such as financial statements and bank statements, that the applicant has a minimum paid up capital of two hundred and fifty million kwacha (K250.0 million);

(*g*) a copy of the resolution of the applicant's board of directors approving the application for a deposit taking microfinance business licence or approval;

(*h*) in case of an applicant that is already licensed in another country, a letter from the home country supervisory authority.

DECLARATION

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

Director:.....(*Name*)

Signature:..... Date:.....

Director:.....(*Name*)
Signature:..... Date:.....
Director .....(*Name*)
Signature:..... Date:.....

SECOND SCHEDULE (para. 4(2)(*b*))

FEES PAYABLE BY DEPOSIT TAKING MICROFINANCE INSTITUTIONS

Nature of application	*Fees Payable*
Licence application fee	K150,000.00
Application for approval fee.	K50,000.00

THIRD SCHEDULE (para. 5(1)(*b*))

FIT AND PROPER QUESTIONNAIRE

This form shall be submitted to the Registrar of Financial institutions and the information listed below shall be submitted in the order requested. The information requested in this fit and proper questionnaire is required of all persons proposed to be Directors and Senior Management officials of Deposit Taking Microfinance Institutions.

1. Name of Director/Officer:.....
2. Proposed Position in the Microfinance Institution:.....
3. Postal address:.....
4. Physical address;.....
.....
5. Highest academic qualifications:.....
6. Amount, type and percentage of shareholding, if any, in the Microfinance Institution.

Name	*Type of shareholding*	*Amount of shareholding*	*Percentage of shareholding*

7. Share- holding in other companies

Company's name	*Date of incorporation*	*Amount of shareholding*	*Percentage of shareholding*	*Past shareholding*		*Remarks*
				A	*B*	

A. Refers to date of closure or surrender of shares
B. Refers to reasons for closure or surrender

8. Employment/Business record (Please include positions you are holding, or may have held as a director, shareholder or senior management official at any financial institution anywhere in the world)

Name of Director or Officer	*Name of Employer*	*Positions held and dates*	*Responsibilities (where applicable)*	*Reasons for Leaving*

9. Provide a name (or names) of your bankers for the last five (5) years.

.....

.....

.....

.....

10. Are you an accredited member of any professional body in Malawi such as Institute of Chartered Accountants in Malawi (ICAM), Institute of Internal Auditors (IIA) Economics Association of Malawi (ECAMA) or Malawi Law Society (MLS)?

.....

If yes, give particulars.....

.....

.....

.....

11. Have you or any entity with which you are associated with as Director, Shareholder or Manager or ever held or applied for a licence or equivalent authorisation to carry on any business activity in any country?

.....

If yes, give particulars.....

.....

If any such application was rejected or withdrawn after it had been issued, or any authorisation revoked, give particulars.....

.....

.....

12. Has the applicant:

a. been found liable of fraud or other dishonesty, or violence, misrepresenta-tion, breach of contract, breach of fiduciary duty or professional negligence given against it, in any civil proceedings, or are there any proceedings now pending that may lead to such a judgment or finding? *Yes /No*

If yes, give particulars:.....

.....

b had any body corporate, partnership, or unincorporated institution with which the person was associated as a controlling party shareholder, director, executive officer or senior management official, in Malawi or elsewhere, been wound-up, made subject to an administration order, otherwise made any compromise or arrangement with its creditors, or ceased trading either while the person was associated with it or within one year after the person ceased to be associated with it or has anything analogous to any of these events occurred under the laws of any other jurisdiction? *Yes /No*

If yes, give particulars:.....

.....

c. contravened any written law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts? *Yes /No*

If yes, give particulars:.....

.....

d. ever failed to satisfy within one year a judgment debt under a court order in Malawi or elsewhere? *Yes /No*

If yes, give particulars:.....

.....

e. ever been adjudged bankrupt by a court in Malawi or elsewhere? Has a bankruptcy petition ever been served on the person? Has the person made any compromise arrangement or otherwise failed to satisfy creditors in full? *Yes /No*

If yes, give particulars:.....

.....

f. ever been censured, prosecuted, warned as to conduct, discplined,disqualified or suspended from practicing a profession, removed from office, publicly criticized, or made subject to a court order at the instigation of any governmental body appointed under any enactment, by a professional organization, or the sustantial equivalent thereof in Malawi or elsewhere? *Yes /No*

If yes, give particulars:.....

.....

13. Indicate the names, 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 must have known you for at least three years.

.....

.....

.....

14. Please attach a detailed copy of the applicants Curriculum Vitae and copies of certificates, duly certified.
15. Please attach copies of any employment contracts.
16. Attach a copy of an official resolution of the Board, authorizing the appointment notice of the individual to the Institution.
17. Please attach a copy of certified minutes of the board of directors demonstrating that they have thoroughly evaluated the proposed executive officer according to the "Fit and Proper" requirements of the Registrar of Financial Institutions and deem the applicant to be "fit and proper".

FOURTH SCHEDULE

FORM—A (para..7(2))

LICENCE NO.....

FINANCIAL SERVICES ACT, 2010

LICENCE TO CONDUCT DEPOSIT TAKING MICROFINANCE BUSINESS

A LICENCE is hereby granted to:.....
(*name of deposit taking microfinance institution*)

Located at:.....
(*address of Head Office*)

and authorises the said deposit taking microfinance institution to conduct and carry on deposit taking microfinance business in Malawi. This licence is issued subject to the provisions of the Financial Services Act 2010.

Issued this.....day of.....,20.....

.....
Registrar of Financial Institutions

FORM—B (para. 7(3))

APPROVAL NO.....

In the matter of Section 21 of the Financial Services Act, 2010 and Section 5 of the Microfinance Act, 2010.

APPROVAL TO OFFER MICROFINANCE SERVICES

PURSUANT to Section 21 of the Financial Services Act, 2010 and Section 5 of the Microfinance Act, 2010 .

I HEREBY grant approval to .....(*name of the applicant*) of .....(*address of the principal place of the applicant*) to offer Microfinance services.

This Approval is granted subject to the provisions of the Financial Services Act, 2010 and the Microfinance Act, 2010.

Granted this.....day of....., 20.....

.....
Registrar of Financial Institutions