GOVERNMENT NOTICE NO. 48

FINANCIAL COOPERATIVES ACT, 2011

(ACT NO. 8 OF 2011)

FINANCIAL COOPERATIVES (PREMISES INSPECTION) DIRECTIVE, 2013

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MINIMUM STANDARDS FOR PREMISES

IN EXERCISE of the powers conferred by section 14 (1) of the Financial Cooperatives Act, 2011, I, CHARLES S. R. CHUKA, Registrar of Financial Institutions make the following Directive—

PART I—PRELIMINARY

Citation

1. This Directive may be cited as the Financial Cooperatives (Premises Inspection) Directive, 2013.

Interpretation

2.—(1) In this Directive, unless the context otherwise requires—

"agent" means an entity that has been contracted by a Savings and Credit Cooperative Society (in this Directive hereinafter referred to as a "SACCO") and approved by the Registrar to provide services on behalf of the SACCO;

"branch" is a physical location, including a head office, where a SACCO offers full range of products and services without restrictions except as prescribed by the Registrar;

"kiosk" means a physical location that offers limited range of services under supervision of a branch;

"mobile van" means a motor vehicle that takes SACCO services to localities far from a branch or kiosk; and

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

(2) Any term used in this Directive, and which has been defined in the Act, has the meaning ascribed to that term under the Act.

PART II—OBJECTIVES

Setting minimum standards for SACCO premises

3. The objectives of this Directive are to ensure that—

(*a*) SACCOs operate in premises with adequate security arrangements and operational infrastructure;

(*b*) SACCO premises are of a high standard to command the trust and confidence of both the public and SACCOs' members; and

(*c*) SACCO premises are maintained up-to-date commensurate with the changing times and environment.

PART III—REQUIREMENTS

Recognized premises

4.—(1) In addition to branches, kiosks, mobile vans and any other premises for which prior approval has been obtained, a SACCO may recruit agents to offer SACCO services.

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(2) Where a SACCO intends to recruit an agent to offer SACCO services, the SACCO shall comply with the Financial Services (Agent Banking) Regulations.

Board and management responsibilities

5.—(1) The board of directors of a SACCO shall put in place policies, procedures and internal controls with regard to acquisition, revaluation, maintenance, depreciation and disposal of premises.

(2) A SACCO shall obtain approval of the board of directors prior to acquisition and disposal of premises.

(3) A SACCO shall keep a register of its premises, together with all agreements relating to the premises.

(4) A SACCO shall regularly review and reconcile its fixed assets register to ensure that all necessary entries with regard to acquisition, revaluation, depreciation and disposal are properly recorded.

(5) A SACCO shall ensure that, as applicable—

(*a*) the title or lease is legally valid, and that any necessary steps such as deed registration are taken in a timely manner;

(*b*) the premises have adequate insurance cover; and

(c) the use of the premises conforms to all regulations applicable at the location.

PART IV—APPROVAL PROCESS

Prior approval

6.—(1) A SACCO shall seek prior written approval from the Registrar in respect of—

(*a*) any acquisition, renovation or construction of SACCO premises;

(*b*) upgrading or merging of SACCO premises; and

(*c*) closure or downgrading of SACCO premises.

(2) All applications to the Registrar in subparagraph (1) shall be accompanied by a business case.

Conditions for granting approval

7.—(1) In granting approval for applications under paragraph 6, the Registrar shall consider the following—

(*a*) the proposed location;

(*b*) merits and demerits of the proposal including the impact on the financial inclusion agenda;

(*c*) the most recent performance indicators and condition of the SACCO; and

(*d*) whether the SACCO is not under any administrative or enforcement action.

(2) The Registrar shall render his decision within fifteen business days of receiving a complete application.

Occupation of premises

8.—(1) A SACCO shall inform the Registrar of its intention to occupy premises at least two weeks prior to occupying the premises.

(2) The notification shall include—

(*a*) a copy of a letter from the Registrar in which prior written approval was granted in terms of paragraph 6;

(*b*) a specific date on which the premises are expected to open for business;

(*c*) preferable dates on which the Registrar may inspect the premises; and

(*d*) precise location of the premises.

(3) The Registrar shall inspect the premises prior to occupation and assess the suitability of the premises in line with the requirements set out in the Schedule hereto.

(4) Where SACCO premises do not satisfy the minimum requirements stipulated in this Directive—

(*a*) the SACCO shall rectify the shortfalls;

(*b*) the Registrar shall re-inspect the rectified premises before certification; and

(*c*) the SACCO shall bear all costs for the re-inspection.

(5) Where the Registrar is satisfied with the suitability of the premises, the Registrar shall issue—

(*a*) a premises inspection certificate in respect of a branch; or

(*b*) an approval letter in respect of a mobile van or a kiosk.

(6) A SACCO shall display the premises inspection certificate at a conspicuous place inside its premises.

Routine premises inspection

9.—(1) The Registrar shall conduct routine premises inspections to ensure that a SACCO maintains its premises to the required standards.

(2) Where a SACCO does not meet the requirements of this Directive during the inspection the—

(*a*) SACCO shall rectify the deficiencies within the time period stipulated by the Registrar;

(*b*) Registrar shall re-inspect the premises;

(*c*) SACCO shall bear the cost of the re-inspection.

(3) If upon a re-inspection, or expiry of a deadline provided in subparagraph (2) the deficiencies remain uncorrected, the Registrar shall revoke the premises inspection certificate.

Higher standards for premises of SACCOs

10.—(1) The Registrar may require a SACCO to meet higher standards based on the nature and volume of services offered at the premises.

PART V—ENFORCEMENT

Monetary penalties

11.—(1) The Registrar shall impose the following monetary penalties for violations of this Directive—

(*a*) for SACCOs, up to two million Kwacha (K2,000,000); and

(*b*) for natural persons who are members of the board of directors or management, up to five hundred thousand Kwacha (K500,000).

(2) The SACCO or natural person shall pay the penalty in subparagraph 1 through a bank certified cheque payable to the Reserve Bank of Malawi within ten working days after being notified of the violation.

Other penalties

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12. In addition to the monetary penalties imposed in paragraph 11, the Registrar may impose directions, administrative penalties and enforcement action as provided for under the Act and the Financial Services Act, 2010.

PART VI—TRANSITIONAL ARRANGEMENTS

Compliance with this Directive

13. A SACCO with a provisional licence issued by the Registrar that does not meet the minimum standards prescribed in this Directive shall comply with the Directive by 1 March 2015.

SCHEDULE (para. 8 (3))

MINIMUM STANDARDS FOR PREMISES

1. The Registrar shall inspect and ensure that the SACCO has satisfied the following—
   (*a*) premises are located in an accessible area for its members;
   (*b*) where premises are shared with other businesses, there is a distinct barricade separating the businesses;
   (*c*) sensitive and important documents are kept in lockable fireproof cabinets;
   (*d*) the outer walls are of strong reinforcement materials;
   (*e*) windows have blinds or are tinted to obscure outsiders from observing transactions conducted in the banking area;
   (*f*) windows are reinforced;
   (*g*) premises have security lights;
   (*h*) there are security guards at least for the night;
   (*i*) there is a signage post conspicuously displaying the name of the SACCO;
   (*j*) doors are protected;
   (*k*) counters are well elevated and wide;
   (*l*) the strong room or vault cash room if available is dual controlled and securely located out of customers' sight;
   (*m*) the manager's office has a direct and speedy communication with the police or security agent;
   (*n*) at least one fire extinguisher that must be regularly tested for functionality;
   (*o*) the premises have an off-site back-up centre for data and systems; and
   (*p*) an auto teller machine, if available, is—
      (i) securely located; and
      (ii) convenient to customers.

2. In addition to the requirements of paragraph 1—
   (*a*) a branch, shall have the following—
      (i) a spacious banking area;
      (ii) cubicles where tellers shall operate from;
      (iii) security bars on doors and windows;
      (iv) security lights;
      (v) a strongroom or safe; and
      (vi) at least a computer.

(*b*) a mobile van shall have the following—

(i) security guards who have access to alarm system;

(iii) some mode of communication with the controlling station;

(iii) instructions on reaction to threat for both the crew and the controlling station; and

(iv) standby arrangements with security agents while the van is mobile.

Made this 13th day of November, 2013.

C. S. R. CHUKA
Registrar of Financial Institutions