GOVERNMENT NOTICE NO. 42

MICROFINANCE ACT, 2010

(NO. 21 OF 2010)

MICROFINANCE (PREMISES INSPECTION REQUIREMENTS FOR DEPOSIT TAKING MICROFINANCE INSTITUTIONS) DIRECTIVE, 2014

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IN EXERCISE of the powers conferred by section 57(1) as read with section 19 (2) of the Microfinance Act, 2010, I, CHARLES S. R. CHUKA, Registrar of Financial Institutions, issue the following Directive—

PART I— PRELIMINARY

1. This Directive may be cited as the Microfinance (Premises Citation

Inspection Requirements for Deposit Taking Microfinance Institutions) Directive, 2014.

Interpretation

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

"agency" means an outlet of a deposit taking microfinance institutions offering a limited range of services which is under close supervision of a branch;

"agent" means an entity that has been contracted by a deposit taking microfinance institution and approved by the Registrar to provide services on its behalf;

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

"institution" means a deposit taking microfinance institution;

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

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

"Registrar" means the Registrar of Financial Institutions appointed under the Financial Services Act, 2010.

Act No. 26 of 2010

PART II—OBJECTIVES

Objectives

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

(*a*) institutions operate in safe premises with necessary security arrangements and operational infrastructure;

(*b*) premises of institutions are of a high standard to command the trust and confidence of both the public and customers; and

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

PART III— REQUIREMENTS

Recognised premises

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

(2) Where an institution intends to recruit an agent to offer relevant microfinance services, the institution shall comply with the Financial Services (Agent Banking) Regulations, 2012.

G. N. No. 27 of 2012

Board and management responsibilities

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

(2) An institution shall—

(*a*) obtain approval of its board of directors prior to acquisition and disposal of premises;

(*b*) keep a register of its premises, together with all agreements relating to the premises; and

(*c*) 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.

(3) An institution shall ensure that, where applicable—

(*a*) the title or lease of its premises 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) An institution shall seek prior written approval from the Registrar in respect of—

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

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

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

(2) All applications for approval referred to in subparagraph (1) shall be accompanied by a business case.

(3) An application for opening a place of business shall be in the form set out in the First Schedule to this Directive and shall be accompanied by—

(*a*) a summary report showing performance of the institution;

(*b*) an organization structure for the proposed place of business; and

(*c*) a feasibility study of the future operations and development of the new place of business for a minimum of three (3) years including projections for—

(i) expected deposit mobilisation and interest payable stating separately the proposed major sources of deposits;

(ii) projected investments to be made and earnings stating policy and categories of business to be funded;

(iii) opening expenses;

(iv) liquid and cash reserves;

(v) provisions for loans and advances;

(vi) fixed assets including business premises;

(vii) other incomes including commissions and discounts;

(viii) net operating profit or loss;

(ix) statistical and other data which may have been collected in respect of an area in which the applicant intends to serve, including population of the area, sectoral activities such as agricultural

activities, microbusiness and industrial development, existing financial intermediaries; and

(x) a schedule of all the preliminary expenses.

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 its impact on the financial inclusion agenda;

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

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

(2) The Registrar shall render his decision within fifteen (15) business days of receiving a complete application.

Change of place of business

8.—(1) An institution shall not change a place of business without the prior written approval of the Registrar.

(2) An application for approval to change a place of business shall be made to the Registrar in the form set out in the Second Schedule to this Directive and shall be accompanied by the following information—

(*a*) the basis for the change of location and plan for settlement or transfer of claims and liabilities;

(*b*) expected date of relocation; and

(*c*) analysis of the potential and feasibility for changing the premises location.

(3) The Registrar shall, within thirty (30) days of receiving a complete application, grant approval in writing to an application of change of place of business if satisfied that all requirements set out in this Directive have been fulfilled.

(4) Where the Registrar has not granted approval to an application of change of place of business—

(*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.

Closure of place of business

9.—(1) An institution shall seek prior written approval of the Registrar when—

(*a*) closing a place of business in a manner so as to permanently cease operation of business; or

(*b*) closing, temporarily, a place of business.

(2) An application to close a place of business shall be made to the

Registrar in the form set out in the Second Schedule to this Directive and shall be accompanied by a plan for settlement or transfer of assets and liabilities.

(3) Where approval is granted to close a place of business permanently, an institution shall—

(*a*) give notice of the closure to the public, at least three (3) months prior to such closure; and

(*b*) report the closure to the Registrar not later than fourteen (14) days after the closure.

(4) A notice of closure shall be made—

(*a*) by placing notices within and around the premises notifying customers of the intended closure;

(*b*) in at least two newspapers of nationwide circulation; and

(*c*) to all government administrative offices in the area of the place of business.

PART V—PREMISES INSPECTION

Inspection of new premises

10—(1) An institution shall inform the Registrar of its intention to occupy premises at least two (2) weeks prior to occupying the premises.

(2) The notification referred to in subparagraph (1) 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 Third Schedule to this Directive.

(4) For security reasons, an institution premises shall not be in a storey building where the upper floor or vice versa is residential.

(5) Where the premises do not satisfy the requirements stipulated in this Directive,

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

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

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

Premises certificate

11.—(1) Where premises of an institution are found suitable, the Registrar shall issue a premises inspection certificate in the form prescribed in the Fourth Schedule to this Directive.

(2) 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.

(3) An institution shall display the premises inspection certificate at a conspicuous place inside its premises.

Routine premises inspection

12.—(1) The Registrar shall conduct routine premises inspections to ensure that an institution maintains its premises to the required standards.

(2) Where an institution does not meet the requirements of this Directive—

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

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

(*c*) the institution 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 unrectified, the Registrar shall revoke the premises inspection certificate.

Higher standards for premises

13.—(1) The Registrar may require an institution to meet higher standards than the standards prescribed in the Third Schedule to this Directive, based on the nature and volume of services offered at the premises.

PART VI—ENFORCEMENT

Monetary penalties

14.—(1)The Registrar shall impose the following penalties for violation of this Directive—

(*a*) for an institution, up to fifty million Kwacha (K50,000,000); or

(*b*) for a natural person who is a member of the board of directors or management of an institution, up to ten million Kwacha (K10,000,000).

(2) An institution or a natural person shall pay the penalty in subparagraph (1) through a bank certified cheque payable to the Reserve Bank of Malawi within ten (10) working days after being notified of the violation.

Other Penalties

15. In addition to the monetary penalties imposed in paragraph 14, the Registrar may impose directions and administrative penalties as provided for under the Act and the Financial Services Act, 2010.

FIRST SCHEDULE (para. 6 (3))

FORM

APPLICATION TO OPEN A NEW PLACE OF BUSINESS

PART I—GENERAL INFORMATION

1. Name of institution:.....

2. Type and number of licence:.....

3. Location of branches and outlets and dates of establishment:

Type of Premises	*Date Established*	*Location*

4. Core capital:.....

5. Total deposits:.....

PART II—PLACE OF BUSINESS

6. Type of the proposed place of business (branch, agency, mobile unit)

.....

7. Exact location of the proposed place of business.....

(*a*) Location: district/town.....

(*b*) Postal address and telephone numbers:.....

(*c*) Physical address: .....

9. Whether a suitable premise is available?

.....

If not, what arrangements are proposed to be made.....

.....

10. Proposed date of commencing operations.....

11. Do you plan to change the status of the place of business?.....

If yes, state proposed type of status and when.....

12. A three year feasibility study of the proposed place of business.....

.....

Signed.....Date: .....

(*Chief Executive Officer*)

SECOND SCHEDULE (paras.8(2) and 9(2))

FORM

APPLICATION TO OPEN A NEW PLACE OF BUSINESS

PART I—GENERAL INFORMATION

1. Name of institution:.....

Type and number of licence:.....

2. Total number and locations of branches and outlets and dates of establishment:

.....

3. Provide names of significant shareholders, nationality, address and their respective percentage shareholding.....

5. Type of current place of business to be closed or relocated (i.e. branch, agency, mobile unit, marketing office etc.)

.....

PART II—RELOCATION

6. Name of the place of business to be relocated, if already identified.....

(*a*) Postal address and telephone numbers:.....

(*b*) Physical address: .....

(*c*) District/ Town: .....

7. Reasons necessitating relocation of place of business.....

.....

8. Proposed new location of the place of business.....

(*a*) Postal address and telephone numbers: .....

(*b*) Physical address: .....

(*c*) District, City/ Town:.....

9. Is the new place of business:

(a) Self-owned? *Yes/No**. If yes, cost of purchase or construction.....

(*b*) Leased?..... *Yes/No**.....If yes, provides lease agreement

(*c*) If agency type, provides agency agreement.....

10. Proposed date of commencing operations.....

11. Do you plan to change the status of the proposed place of business *Yes/No*

If yes, state the proposed type of status and when.....

PART III—CLOSURE

12. Location of current place of business proposed to be closed—

(*a*) Postal address and telephone numbers: .....

(*b*) Physical address: .....

(*c*) District/Town: .....

13. Reasons necessitating closure of place of business

.....

14. Indicate profitability of the branch in the last three year.....

15. Provide the proposed action plan on the settlement of assets and liabilities on existing customers.....

16. Provide the proposed action plan on current branch employees

18. Are there any banking or microfinance facilities provided in the vicinity? Yes/No

If so, state by whom.....

Signed.....Date: .....

(*Chief Executive Officer*)

THIRD SCHEDULE (Para 10(3))

FORM

MINIMUM REQUIREMENTS FOR PREMISES

Below are the minimum requirements which a deposit taking microfinance institution shall ensure are met at its business premises. Some are mandatory (designated as "M"), while others are optional (designated as "O" depending on whether the premises are a licensed institution head office, branch, agency, kiosk, or mobile van. Where a requirement is not applicable, the designation (N/A) has been used. Many of the requirements are either optional or not applicable for all head offices of deposit taking microfinance institutions. However, a deposit taking microfinance institution need to take all necessary precautions to ensure that there is adequate security and operational infrastructure commensurate with all their head office operations in their head office premises.

	CHARACTERISTICS	*Branch*	*Agency*	*Kiosk*	*Mobile Van*
1.	*General Outside Surroundings*				
•	Ensure that the outer walls are of strong reinforcement materials	M	M	M	M
•	Windows must have blinds or tinted to obscure outsiders from observing transactions conducted in the banking hall.	M	M	M	M
•	Backyard windows must be reinforced	M	M	M	M
•	The surrounding perimeter must have all the necessary security features to cater for the day and night.				
	Such security features shall include—				
	(*a*) Alarm or satellite communication system that must be connected to the institution's management for speedy communication to security agent or police, ...	M	O	O	M
	(*b*) Security lights	M	M	M	M
	(*c*) A fence	O	O	O	N/A

CHARACTERISTICS	Branch	Agency	Kiosk	Mobile van
(*d*) Security guards /commissionaires for day and night who should have access to alarm system	M	M	M	M
(*e*) Signage post showing the name of the deposit taking microfinance institution that must be conspicuously displayed.	M	M	M	M
In addition to the above, a mobile van shall have				
(*a*) A satellite tracking system	N/A	N/A	N/N	M
(*b*) Some mode of communication with the controlling station which should include secret distress buttons	N/A	N/A	N/N	M
(*c*) Instructions on reaction to threat for both the crew and the controlling station	N/A	N/A	N/N	M
(*d*) Standby arrangements with some capable security force while the vans are mobile . .	N/A	N/A	N/N	M
• Entrance/exit doors must be protected (e.g. with intruder alarm, strong steel trellis bars or burglar bars)	M	M	M	M
• The premises should at least have a customers' car park, and	M	O	O	N/A
• Space at the back to allow vehicles that come with large deposits	O	O	O	N/A
• Availability of Auto Teller Machines (ATMs)	O	O	O	O
• ATMs if available should be				
(*a*) Security located in a conspicuous place	M	M	M	M
(*b*) There must be at least one person in the branch/agency trained to carry out simple maintenance of the machines	M	M	M	M
2. General Inside Requirements				
• Ensure counters are well elevated, and reasonably wide	M	M	M	M
• Cashier counters must be protected with bullet proof glasses	O	O	O	O

CHARACTERISTICS	*Branch*	*Agency*	*Kiosk*	*Mobile Van*
• All counters should be well labelled to guide customers	M	M	O	O
• There must be a special provision for large deposits, securely located away from the sight of customers strong safes to ensure security	M	M	M	N/A
• Availability of strong room and/or vault cash room	M	O	O	N/A
• The strong room or vault cash room if available must be dual controlled, securely located out of customer's sight, made of heavy iron, and preferably fire proof	M	M	M	N/A
• The teller's cubicle must have panic buttons that are connected to management for speedy communication to the police or security agent	O	O	O	O
• Time response when panic button is pressed must be quick enough to suppress any theft or burglary e.g. 5 to 10 minutes	O	O	O	O
• The manager's position must have direct and speedy communication with the police or security agent	O	O	O	O
• Generally, the deposit taking microfinance institution premises/infrastructure must have an alarm system that is effective and connected to police or security agent for timely response.	M	O	O	M
• Ensure that the front office has reliable, fast, efficient computers for better customer service	O	O	O	O
• Ensure that there are monitoring cameras (closed circuit television system) in all the strategic areas, e.g. entrance/exit doors, banking hall, corridors, and front/back yard. These cameras must be connected to a screen of a dedicated person with appropriate seniority who shall regularly monitor the activities/operations in the banking hall and/or premises	O	O	O	O
All strategic areas must have—				
(*a*) Smoke detectors	M	M	O	O

	CHARACTERISTICS	Branch	Agency	Kiosk	Mobile Van
	(*b*) Fire extinguishers that must be regularly tested for functionality	M	M	M	M
	(*c*) Ensure that there are emergency exit doors (e.g. one way opening from inside) and an Emergency Evacuation Plan	M	M	O	O
	(*d*) The roof must be properly secured e.g. intruder alarm system	O	O	O	O
	• For speedy communication, ensure that reliable telephone and internet facilities are installed and functional	M	M	M	M
3.	Other features				
	• Utilities such as electricity, water, etc., must be available and in working order . .	M	M	O	N/A
	• In view of frequent blackouts, it is necessary to have a standby power generator or uninterruptible power supply (UPS) to cater for periods of failures	M	M	M	M
	• The premises must have an off-site back-up centre for their data and systems . .	M	M	M	M
	• Ensure that operational policies and procedural guidelines of the deposit taking microfinanceinstitution are in place	M	M	M	M
	• These are made available and known by relevant users	M	M	M	M

FOURTH SCHEDULE (para. 10 (3))

FORM

PIC No.....

PREMISES INSPECTION CERTIFICATE

THIS IS TO CERTIFY that the Registrar of Financial Institutions conducted a premises inspection of.....located at.....
and has deemed the premises appropriate for deposit taking microfinance business.

This Certificate is not a licence to conduct deposit taking microfinance business. It shall become invalid upon withdrawal of the deposit taking microfinance business licence or deterioration of premises and facilities therein.

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

.....
Registrar of Financial Institutions,

Made this 21st day of July, 2014.

C. S. R. CHUKA
Registrar of Financial Institutions

(FILE NO. ST/2/120)