

GOVERNMENT NOTICE NO. 254 published on 30/06/2015

THE BANKING AND FINANCIAL INSTITUTIONS ACT,  
(CAP. 342)

REGULATIONS

THE BANKING AND FINANCIAL INSTITUTIONS (MORTGAGE FINANCE) REGULATIONS, 2015

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THE BANKING AND FINANCIAL INSTITUTIONS ACT,  
(CAP. 342)

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**REGULATIONS**

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*(Made under section 71)*

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**THE BANKING AND FINANCIAL INSTITUTIONS (MORTGAGE FINANCE)  
REGULATIONS, 2015**

**PART I  
PRELIMINARY PROVISIONS**

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|----------------------------|---|
| Short Title                | <b>1.</b> These Regulations may be cited as the Banking and Financial Institutions (Mortgage Finance) Regulations, 2015.  |
| Application                | <b>2.</b> These Regulations shall apply to any person engaged in mortgage finance operations both in Tanzania Mainland and Tanzania Zanzibar.   |
| Interpretation<br>Cap. 342 | <b>3.</b> In these regulations unless the context requires otherwise-<br>“Act” means the Banking and Financial Institutions Act;<br>“affiliate” means a person who directly or indirectly controls, or is under common control with, a housing finance company;<br>“bank” has the same meaning ascribed to it in the Act;<br>“banking business” has the same meaning ascribed to it under the Act;<br>“collateral replacement indemnity” means an insurance product aimed at allowing persons engaged in mortgage finance to provide up to one hundred percent mortgage loan without requiring the borrower to make upfront cash deposit;<br>“conflict of interest” means a situation in which someone in a position of trust has competing professional, business or personal interest making it difficult to fulfil his duties impartially; |

- “core capital” has the same meaning ascribed to it under the Act;
- “director” has the same meaning ascribed to it under the Act;
- “disclosed reserves” has the same meaning ascribed to it under the Act;
- “entity” has the same meaning ascribed to it under the Act;
- “financial intermediation” has the same meaning ascribed to it under the Act;
- “fit and proper person” means a person with the attributes required of a member of the board of directors and management of a housing finance company as per the criteria set out in the First Schedule to these Regulations;
- “housing finance company” has the same meaning ascribed to it under the Act
- “insider” means directors, officers or significant shareholders of a Housing finance company and their related parties;
- “mortgage” means a loan granted to a borrower for the purposes of acquiring, improving or constructing a residential property and is secured by the acquired, improved or constructed residential property;
- “mortgage agreement” means an agreement between a person engaged in mortgage finance operation and a borrower;
- “mortgage finance operations” means business operations which involve issuance of mortgages;
- “officer” has the same meaning ascribed to it under the Act;
- “person” has the same meaning ascribed to it under the Act;
- “recovery” means collection of the past due amount;
- "related party":
- "related party":
- (a) in relation to a body corporate means -
    - (i) its holding company or its subsidiary;
    - (ii) a subsidiary of its holding company;
    - (iii) a holding company of its associates; or
    - (iv) any person who controls the company or body corporate whether alone or with his related party or with other related parties of it;
  - (b) in relation to an individual means -
    - (i) any member of the family;
    - (ii) any company or other body corporate controlled directly or indirectly by an individual whether alone or with his related parties; and
    - (iii) any related party of his related parties;
- “significant interest” has the meaning ascribed to it under the Act;
- “subsidiary” has the meaning ascribed to it under the Act;
- “the Bank ” means the Bank of Tanzania established by the Bank of Tanzania Act;
- “total capital” has the meaning ascribed to it under the Act.

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Principles for  
Regulating  
Mortgage Finance  
Operations

**4.** The regulation of mortgage finance operations shall adhere to the principles of:

- (a) promotion of sustainable mortgage finance operation companies;
- (b) instilling good corporate governance and accountability by shareholders, directors and managers;
- (c) putting in place safeguards against money laundering, corrupt activities for promotion and protection of integrity of the financial system;
- (d) setting standards for mortgage granting and risk management; and
- (e) fostering efficient flow of information and transparency

## **PART II LICENSING REQUIREMENTS**

Eligibility for  
licensing

**5.-(1)** A person shall not engage in mortgage finance operations, unless that person has a licence issued by the Bank.

(2) A person who contravenes the provision of sub-regulation (1) commits an offence and on conviction shall be liable to the penalty stipulated in the Act.

(3) Banks and financial institutions licensed by the Bank shall be allowed to engage in mortgage finance operations as permitted by the Act.

(4) Where a bank or financial institution engages in mortgage finance operations in accordance with sub regulation (3), it shall:-

- (a) comply with regulation 29 of these regulations; and
- (b) develop a mortgage policy that at a minimum covers requirements of regulation 31(2) of these regulations.

Incorporation

**6.** A housing finance company shall be incorporated as a company limited by shares under the laws of Tanzania.

Proof of source of  
capital

**7.** In proving sources of capital, a shareholder and any subscriber of a Housing finance company shall be required to provide-

- (a) a written proof of sources of funds; and
- (b) a written confirmation that the proposed paid up capital shall be fully paid up before the commencement of the operations.

Application for  
licence

**8.** An application for licence shall be accompanied at minimum by the following-

- (a) a certified legal document or board resolution authorizing the signatories to apply;
- (b) brief description of information and communication technology to be used in the operations of the housing finance company;
- (c) management positions and an organization chart;
- (d) narrative description of shareholders, board members and senior management of the housing finance company;
- (e) business plan and financial projections prepared in accordance with the guidelines as provided in the Second Schedule to these Regulations; and
- (f) policies and procedural manuals which shall ensure that the housing finance company operates in a manner consistent with international

best practice.

Pre-filing meeting

**9.-(1)** An applicant for a housing finance company license shall, before submitting an application referred to under regulation 8, apply for a pre-filing meeting with the Bank.

(2) An application shall not be considered until such a meeting is held or a waiver is granted.

Application letter

**10.** Every applicant shall submit to the Bank an application for a license in a manner prescribed in the Third Schedule to these Regulations.

Application fees

**11.** An application for a license shall be accompanied by a non-refundable application fee of Tanzanian Shillings ten million or any other amount as may be determined by the Bank.

Documents

**12.** An application made under regulation 8 shall be accompanied with one copy of each of the documents listed in the Fourth Schedule to these Regulations.

Legal opinion

**13.** The Bank may require an applicant to submit a legal opinion on any issue related to the housing finance company as it may determine.

Principal contact

**14.** For the purpose of facilitating processing of application, every applicant shall designate and inform the Bank its principal contact person.

Granting or denial of a licence

**15.-(1)** The Bank shall, within ninety days after receipt of a complete application, or where further information has been required, after receipt of such information, grant a licence or reject the application.

(2) Where an application is rejected, the Bank shall provide in writing to the applicant an explanation of the grounds upon which the rejection is based.

(3) An applicant whose application has been rejected may re-apply, if the deficiencies that formed the basis for rejection of the initial application or subsequent review have been corrected or otherwise addressed.

Commencement of business

**16.-(1)** A housing finance company shall commence operations within twelve months from the date on which the licence was granted, unless such period is extended in writing by the Bank.

(2) Notwithstanding the provision of sub-regulation (1), a licensed Housing finance company shall not commence business until the business premises, security facilities, communication facilities, processing equipment, are in place and have been inspected or reviewed by the Bank.

**PART III  
SUPERVISION BY THE BANK**

Inspections,  
compliance and  
reports

**17.** The Bank shall, at such times and in such manner as it may consider necessary-

- (a) carry out inspections over the operations of a Housing finance company in accordance with the provisions of the Act; and
- (b) require any housing finance company within such time as it may stipulate, to furnish any information or to comply with any order or directive issued by the Bank.

**PART IV  
ORGANIZATION, OWNERSHIP AND MINIMUM CAPITAL**

Board Membership

**18.-(1)** The board of directors of a housing finance company shall have a membership of not less than five, two of whom shall have mortgage finance or related experience and, majority of whom shall be non-executive.

(2) The Chairman of the housing finance company shall be a non-executive member of the Board.

Vetting of senior  
management

**19.-(1)** A housing finance company shall not appoint and assign any person responsibilities as senior manager or board member without obtaining prior approval of the Bank.

(2) A housing finance company shall, within seven days of the departure of any member of the senior management or board of directors, notify the Bank of such departure together with reasons thereof.

Undertaking by  
Board

**20.-(1)** Every member of the board of directors of a Housing finance company shall execute a legally binding undertaking to fulfil his obligations towards maintaining a safe, sound and profitable company.

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(2) Without prejudice to the provision of sub-regulation (1), a Board member shall be required to comply with the provisions of the Act, the Bank of Tanzania Act and any other written laws, Regulations, policies, circulars, orders, directives and instructions made thereunder.

Board  
Responsibility

**21.** The board of directors of any housing finance company shall ensure that appropriate policies on risk management systems are in place and shall be fully responsible and accountable for the execution of such policies and systems.

Minimum Capital

**22.-(1)** Every housing finance company shall commence operations and maintain at all times at least a core capital of Tanzanian shillings fifteen billion or such higher amount as the Bank may prescribe.

(2) Where capital is remitted in foreign currency, it shall be reflected in the books of the Housing finance company in Tanzanian shillings using the

exchange rate prevailing on the date of remittance.

Deposit of paid up capital

**23.** A housing finance company shall deposit its paid up capital and other funds either in Tanzanian shillings or in foreign currency in a Tanzanian registered bank or financial institution or in treasury bills or other government securities of maturity not exceeding 364 days.

Additional capital requirements

**24.** The Bank may prescribe additional capital requirements based on the risk profile of a Housing finance company.

Transfer of ownership

**25.** A Housing finance company shall not transfer ownership of significant interest, merge with, acquire or take over any other housing finance company unless it has obtained prior approval of the Bank.

Capital adequacy ratios

**26.** Every housing finance company shall maintain at all times a minimum core capital and total capital equivalent to twelve and one half percent and fourteen and one half percent respectively of its total risk-weighted assets and off balance sheet exposures.

## **PART V ACCOUNTS, RECORDS AND PRUDENTIAL LIMITS**

Proper business environment

**27.** Every person engaged in mortgage finance operations shall, at all times ensure that the business premises, communication facilities, processing, accounting and internal control systems are in order.

Debt to equity ratio

**28.** Every person engaged in mortgage finance operations shall at all times ensure that debt to equity ratio does not exceed 15:1.

Prudential limits

**29.-(1)** Every person engaged in mortgage finance operations shall observe that:

- (a) loan to value ratio does not exceed ninety percent;
- (b) aggregate mortgage debt servicing to income ratio per borrower not exceeding forty percent; and
- (c) maximum tenure of any mortgage accommodation does not exceed twenty five years.

(2) A person engaged in mortgage finance operations may exceed the limit under sub-regulation (1)(a) up to 100% provided that a borrower is able to provide additional collateral in the form of fixed deposit, pension entitlement, collateral replacement indemnity or Government securities whose total value shall be at least 10% of the value.

(3) For the purposes of sub-regulations (1) and (2), the value of the mortgage property shall be the purchase price or construction cost or improvement cost.

Operating conditions

**30.** Every housing finance company shall, at all times, operate in accordance with the following conditions-

- (a) maintain accounts in accordance with the International Accounting Standards;
- (b) follow the prevailing laws, regulations and guidelines made for the purposes of safeguarding against involvement in money laundering activities and other unlawful trades; and
- (c) grant a mortgage loan denominated in foreign currency when the applicant can evidence adequate and stable revenues in the currency concerned to meet repayment obligations or has taken other measures to mitigate foreign exchange risk.

Significant policies and their contents

**31.**-(1) Every person engaged in mortgage finance operations shall prepare and submit to the Bank for review, its significant policies, including-

- (a) mortgage policy;
- (b) risk management policy;
- (c) operational policy;
- (d) liquidity policy; and
- (e) accounting policy.

(2) The mortgage policy under sub-regulation (1)(a) shall at a minimum include-

- (a) a description of mortgage products that may be offered
- (b) terms and conditions for issuing mortgages;
- (c) standards that shall be used to manage risk in mortgage products.
- (d) underwriting criteria to be applied in evaluating applications for mortgages;
- (e) levels of collateralization and valuation of collateral;
- (f) standards and criteria for, and timing of, periodic assessments of the creditworthiness of borrowers, obligors, or other counterparties, and for the establishment of credit limits;
- (g) risk acceptance policies and adequate risk management procedures over its mortgage lending activity, in line with the Risk Management Guidelines issued by the Bank;
- (h) set mechanism to monitor conditions in mortgage market to ensure policies are aligned to current market conditions; and
- (i) standards and criteria for pricing products, including differential pricing of mortgages.

## **PART VI INSIDER DEALINGS AND SINGLE BORROWER'S LIMIT**

Monitoring of mortgages to insiders

**32.** A housing finance company shall put in place systems that shall facilitate identification and monitoring of mortgages to insiders.

Transactions with insiders

**33.**-(1) Housing finance company is obliged to ensure that all transactions with its insiders are in such terms that are not more favorable than they may be available to others.

(2) Notwithstanding the provisions of sub-regulation (1) a housing finance company may grant mortgages to officers and employees intended as incentives provided such mortgages are managed in accordance with a well-documented policy regarding administration of such facilities.

Mortgages to insiders

**34.**-(1) Every housing finance company shall not grant directly or indirectly any mortgage to any of its insiders unless the mortgage is unanimously approved by all members of the board of directors.

(2) For purposes of sub-regulation (1), the director or alternative director who stands to benefit from the mortgage shall not be given an opportunity to approve the mortgage.

(3) Where a housing finance company grants a mortgage to an insider in accordance with provisions of sub-regulation (1), that person shall, within seven days from the date it grants the mortgage, notify the Bank.

Mortgage limit to single insider

**35.** The total amount of mortgage which a housing finance company may grant directly or indirectly to a single insider shall not exceed ten percent of its core capital.

Aggregate mortgage limit to insiders

**36.** The aggregate amount of mortgages which a housing finance company may grant directly or indirectly to its insiders and persons who have ceased to be insiders within two years from the date when such persons ceased to be insiders shall not exceed twenty five percent of its core capital.

Single borrower's limit

**37.** The total amount of mortgages which a housing finance company may grant directly or indirectly to any person and his related parties shall not exceed twenty five percent of its core capital.

## **PART VII CLASSIFICATION AND PROVISIONING OF MORTGAGES**

Classification

**38.**-(1) Mortgages shall be classified as follows-

- (a) current;
- (b) especially mentioned;
- (c) substandard;
- (d) doubtful; and
- (e) loss.

(2) A mortgage shall be regarded as non-performing if it is classified as-

- (a) substandard;
- (b) doubtful; or
- (c) loss.

(3) Every housing finance company shall apply both quantitative and qualitative criteria in classifying mortgages.

Classification by quantitative criteria

**39.** An outstanding mortgage reviewed by quantitative approach shall be classified in a manner specified in Table I set out in the Fifth Schedule to

these Regulations.

Classification by  
qualitative criteria

**40.** Notwithstanding the provision of regulation 39, housing finance company shall review qualitatively and classify such mortgages into current, especially mentioned, substandard, doubtful or loss.

Current  
classification

**41.** A mortgage shall not be classified as a current mortgage unless such mortgage is a performing loan which-

- (a) does not have a greater than normal risk; and
- (b) does not possess the characteristics and weaknesses of classified mortgages as described in these Regulations.

Especially  
mentioned  
classification

**42.** A mortgage shall not be classified as especially mentioned mortgage unless such mortgage is superior in quality to mortgages classified as substandard, but which are potentially weak and require closer supervision by management and shall include-

- (a) mortgages with technical defects and collateral exceptions such as:
  - (i) un-located collateral file and documents including but not limited to title papers and deeds, mortgage instruments and promissory notes;
  - (ii) unregistered mortgage instruments;
  - (iii) collateral not covered by appraisal reports or appraisal whose reports are unallocated;
  - (iv) mortgages where corresponding promissory notes or mortgage agreements where signed by a person other than the authorized officer of the borrowing firm;
  - (v) mortgages secured by property the title to which bears an uncanceled lien or encumbrance;
  - (vi) collateral not insured or with inadequate or expired insurance coverage; and
- (b) mortgages without credit investigation or analysis reports or updated credit information independently verified by the lender;
- (c) mortgages that need the attention of management for special or corrective action or both which shall include-
  - (i) mortgages where efforts to collect are not evident or are deemed inadequate;
  - (ii) mortgages granted beyond the discretionary limit of the approving authority;
  - (iii) mortgages to borrowers who frequently fail to respond to calls, visits or demand notices to pay.

Substandard  
classification

- 43.** A mortgage shall be classified as substandard if
- (a) it is non-performing;
  - (b) it possesses technical defects and weaknesses of mortgages categorized as especially mentioned and which have remained uncorrected for ninety days or more since the occurrence of deficiency; or

(c) the borrower's ability to service the mortgage has been impaired.

Doubtful  
classification

**44.** A mortgage shall be classified as doubtful if -

- (a) such mortgage was classified as substandard in the last quarterly review without any significant improvement since then in terms of full payment of interest due among other things;
- (b) it is a past due mortgage secured by mortgage title to which property is subject to an adverse claim rendering settlement of the debt through foreclosure doubtful or unviable; or
- (c) it is a mortgage with an extremely high possibility of loss but for certain important and reasonably specific pending factors that may work to the advantage and strengthening of the mortgage, its classification as an estimated loss is deferred until a more exact status is determined.

Loss classification

**45.** A mortgage shall be classified as loss if:

- (a) it was classified as doubtful in the last quarterly review without any significant improvement;
- (b) it is a mortgage to a borrower-
  - (i) who is deceased,
  - (ii) whose whereabouts is unknown; or
  - (iii) whose earning power is permanently impaired; or
- (c) it is a mortgage considered as absolutely uncollectible.

Multiple mortgages

**46.** Where a housing finance company has granted more than one mortgage to a borrower or group of related parties, all such mortgages shall be assigned the least favorable classification given to any one of those mortgages.

Security  
consideration

**47.** The criteria for classifying mortgages shall apply without considering the type of security involved.

Classification of  
other properties and  
assets

**48.** The classification of other property and assets owned or acquired in settlement of mortgages previously contracted, shall be classified as substandard, except the following which shall be classified as loss -

- (a) the excess of the book value of the asset over the fair market value determined by independent professional valuer;
- (b) the entire book value of an asset or property whose title is being contested in court or is definitely lost to another party;
- (c) the entire book value of an asset or property which is not saleable;
- (d) the entire book value of an asset or property which remains unsold after one year or more in the case of personal or movable property or three years or more, in the case of real property;
- (e) the entire book value of an asset or property which a housing finance company is deprived of actual possession or beneficial ownership or over which the housing finance company is unable to exercise the usufructuary right; or

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	<p>(f) the amount of accrued interest and collection expenses which were capitalized to form part of the value of the asset.</p>
Classification of receivables	<p><b>49.</b>-(1) The classification of receivables shall, except for accrued interest receivable, be in a manner specified in Table II set out in the Fifth Schedule to these Regulations.</p> <p>(2) Sundry debts and other accounts receivable arising from mortgages shall have the same classification as their respective mortgages.</p>
Special non-distributable reserve	<p><b>50.</b>-(1) Notwithstanding the International Financial Reporting Standards, every housing finance company shall classify mortgages and other assets and establish specific provisions not less than those specified in these Regulations.</p> <p>(2) Where the provisions computed in accordance with the International Financial Reporting Standards are less than those required under these Regulations, a special non-distributable reserve shall be created through an appropriation of distributable reserves to eliminate the shortfall.</p>
Minimum provisions	<p><b>51.</b>-(1) Every housing finance company shall maintain provisions for all mortgages and other risk assets which shall not be less than the percentages specified in Table III set out in the Fifth Schedule to these Regulations.</p> <p>(2) Percentages specified in sub regulation (1) shall be applied on the outstanding balance of mortgages and other risk assets consisting of principal, interest and any other capitalized charge and fee.</p> <p>(3) Every housing finance company shall establish adequate provisions to cover expected losses where they exceed the provisions established by the minimum percentages under sub-regulation (1).</p>
Valuation of other assets	<p><b>52.</b> Every housing finance company shall value and establish the necessary impairment of all types of assets not specifically mentioned in these Regulations in accordance with International Financial Reporting Standards.</p>
Review by the Bank	<p><b>53.</b>-(1) The Bank shall periodically review the amount of allowance for probable losses.</p> <p>(2) Where the amount of the allowance for probable losses established by a housing finance company is found to be inadequate, the housing finance company shall be required to increase that amount as directed by the Bank and furnish evidence thereto.</p>
Accrual of interest	<p><b>54.</b>-(1) Every housing finance company shall place on a non-accrual basis mortgages which are classified as substandard, doubtful or loss.</p> <p>(2) Accrued but uncollected interest on mortgages placed on non-accrual basis shall be reversed and placed in a suspense account.</p> <p>(3) Any mortgage placed on a non-accrual basis may be restored to an accrual basis upon full settlement of all delinquent principal and interest out of funds drawn from sources other than the housing finance company.</p>

Approval of annual provisions

**55.**-(1) Every housing finance company shall seek prior approval of the Bank of its proposed annual provisions for probable losses before finalization of the annual accounts.

(2) The housing finance company shall submit to the Bank the draft balance sheet, profit and loss account, including a detailed account of the provisions made when seeking approval under sub-regulation (1).

## **PART VIII REPORTING AND DISCLOSURE REQUIREMENTS**

Reports to be submitted to the Bank

**56.** Every housing finance company shall submit returns and reports to the Bank in the format and frequency prescribed by the Bank.

Publication of quarterly financial statements

**57.**-(1) Every housing finance company shall publish its quarterly financial statements in the form prescribed by the Bank in at least two newspapers of wide circulation in the United Republic, excluding weekends and public holidays.

(2) The publication referred to in sub-regulation (1) shall be made in at least one Kiswahili and one English newspaper.

(3) The quarterly financial statements under sub-regulation (1) shall be published within thirty days after the end of the quarter.

(4) Quarterly financial statements shall be duly signed by the Chief Executive Officer and Head of Finance, and be attested by Internal Auditor and two non-executive board members.

(5) A copy of quarterly financial statements referred to under sub-regulation shall be submitted to the Bank within five days after publication, along with newspaper cuttings thereof.

Publication of audited financial statements

**58.**-(1) Every Housing finance company shall publish its annual audited financial statements at least once every year in newspapers of wide circulation in Tanzania.

(2) The annual audited financial statements shall be published within fifteen days after approval of the Board of directors of the Housing finance company but not later than one hundred and five days after the end of the financial year.

(3) Annual audited financial statements shall be duly signed by the Chief Executive Officer and Head of Finance, and be attested by Internal Auditor and two non-executive board members

(4) A copy of annual audited financial statements referred to under sub-regulation (3) shall be submitted to the Bank within five days after publication, along with newspaper cuttings thereof.

(5) For purpose of this regulation, financial year means calendar year.

Publication of lending and deposit rates and other fees

**59.**-(1) A housing finance company shall publish at least quarterly, in at least one Kiswahili newspaper and one English newspaper of wide circulation in Tanzania, excluding weekends and public holidays the following

information-

- (a) base or prime lending rate, including the maximum spread above the base or prime lending rate;
- (b) deposit rates for all types of deposits;
- (c) fees and charges on all products and services; and
- (d) any other information as the Bank may prescribe.

(2) A housing finance company shall display the information referred to in sub-regulation (1) in a conspicuous position in the public part of its principal place of business and in its branches and agencies.

(3) A housing finance company shall submit to the Bank both a printed copy and a soft copy of its disclosure under sub-regulation (1) within five working days after publication.

(4) Notwithstanding the provisions of this regulation, a housing finance company shall publish and submit to the Bank the information referred to in sub-regulation (1) whenever a material change occurs.

(5) A housing finance company shall provide a copy of its tariff guide to new customers.

## **PART IX**

### **INTERNAL AND EXTERNAL AUDITORS REQUIREMENTS**

Internal Audit

**60.** Every Housing finance company shall have an Internal Audit Function whose head shall report directly to the board of directors through the Audit Committee.

Appointment of external auditors

**61.**-(1) Every housing finance company shall, on annual basis, appoint an external auditor who is registered by the National Board of Accountants and Auditors and has no conflict of interest in the housing finance company and shall notify the Bank within seven days of such appointment.

(2) Where a housing finance company fails to appoint an external auditor under sub-regulation (1), or to fill any vacancy for an external auditor as required by may arise, the Bank may appoint, on behalf of the housing finance company an external auditor and fix his remuneration which shall be paid by the housing finance company.

(3) A housing finance company shall, within ninety days from the date the position of external auditor falls vacant, appoint an external auditor to fill in the vacant position.

Rotation of external auditors

**62.**-(1) An external auditor shall not audit the same housing finance company for more than two consecutive terms of three years each.

(2) Without prejudice to the requirement of sub-regulation (1) above, the re-appointment of an external auditor for a second term of three years shall be subject to a competitive bidding process.

(3) Pursuant to sub-regulation (1), an external auditor may resume the role as external auditor only after a lapse of three years from the last audit engagement with the same housing finance company.

(4) An external auditor shall rotate the engagement partner in charge of

audit of a housing finance company after every three years.

**PART X  
MISCELLANEOUS PROVISIONS**

Prohibited activities

**63.** A housing finance company shall not engage in any of the activities which-

- (a) attract or accept any deposit, or any account that is similar to a current account that can be debited by the customer by writing a cheque or requesting a payment order;
- (b) attract or accept any savings deposits;
- (c) attract or accept time or fixed deposit with a maturity of less than twenty four months; or
- (d) grant to any person any type of credit or loan other than mortgage as provided in these Regulations.

Sanctions

**64.** Without prejudice to any other penalty or sanction prescribed by the Act, the Bank may impose one or more of the following sanctions where any of the provisions herein are contravened-

- (a) money penalty on the housing finance company and directors or officers or employees responsible for non-compliance in such amounts as may be determined by the Bank;
- (b) prohibition from declaring or paying dividends;
- (c) suspension of extension of new mortgages;
- (d) suspension of capital expenditure;
- (e) suspension of the defaulting director, officer or employee from office;
- (f) disqualification from holding any position or office in any institution under supervision of the Bank; and
- (g) suspension from carrying out mortgage finance operations in Tanzania.

Revocation of G.N.  
No. 150 of 2011

**65.** The Banking and Financial Institutions (Mortgage Finance) Regulations, 2011 are hereby repealed.

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**SCHEDULES**

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FIRST SCHEDULE

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*(Made under regulation 3)*

CRITERIA FOR DETERMINING THE CHARACTER AND EXPERIENCE REQUIRED FOR A MEMBER OF THE BOARD OF DIRECTORS AND SENIOR MANAGEMENT OF A HOUSING FINANCE COMPANY

1. In order to determine, for the purpose of these Regulations, the character and moral suitability of persons proposed to be members of the Board or senior management, the Bank shall have regard to the following qualities, in so far as they are reasonably determinable, of the person concerned:-

- (a) adequate education background;
- (b) general character;
- (c) professional skills, competence and soundness of judgment for the fulfilment of the responsibilities of the office in question; and
- (d) the diligence with which the person concerned is likely to fulfil those responsibilities.

2. For the purpose of and without prejudice to the generality of the provisions of paragraph 1, the Bank may have regard to the previous conduct and activities of the person concerned in the business or financial matters and, in particular to evidence that such person-

- (a) has committed any act of bankruptcy;
- (b) was a director or in a senior management position of a company that has been liquidated or is under liquidation or statutory management;
- (c) has committed or been convicted of the offence of fraud or any other offence of which dishonesty is an element;
- (d) has contravened the provision of any law designated for the protection of members of the public against financial loss due to the dishonesty or incompetence of, or malpractices in the provision of mortgage financing, banking, insurance, investment or other financial services.

3. Any other criteria, which the Bank may prescribe, from time to time.

4. The following documents shall be submitted to the Bank with respect to each proposed director and senior management team, together with other documents the Bank may require-

- (a) detailed curriculum vitae;
- (b) certified copies of academic and professional certificates;
- (c) photocopy of the pages of the passport which contain personal information including photograph, nationality, date and place of birth and issuer of the passport;
- (d) two certified passport size photographs; and
- (e) references from two persons who are not relatives, vouching for good moral character, integrity and performance.

Banking and Financial Institutions (Mortgage Finance)

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SECOND SCHEDULE

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*(Made under regulations 8)*

GENERAL GUIDELINES FOR PREPARATION OF BUSINESS PLAN

1. The business plan shall be prepared by the promoters and shall be reviewed by the Bank to determine whether approval shall be given to operate a mortgage finance business. The plan shall identify the company's markets, its proposed services, management capabilities, growth plan, and strategies for profitability.

2. The business plan shall present data, which accurately reflect the economic condition of the delineated market and address statutory and regulatory changes, which may affect the operations of the company. Proposal should reflect the realities of the market place.

3. A business plan shall contain sufficient information to demonstrate that the company has reasonable likelihood of success. In this regard a detailed listing of all assumptions such as used in preparing the business plan shall be attached to the submission (e.g. a margin analysis and cost of funds). Therefore, organizers shall ensure that the business plan projections are well supported and goals and objectives are properly defined on initial submission.

*(a) Market Analysis*

4. Analyse the market to be served. Describe the market in which you expect to provide services in terms of economic characteristics for example size, income and industry patterns. Include anticipated changes in the market, the factors influencing those changes, and the effect they will have on the proposed company. To the extent necessary for making business decision, describe differences in the product market to be served for example, differences in the depository, credit and mortgage market. Analysis shall be based on use of the most current economic data available. Sources of information used are reviewed for credibility and are important in reviewing the data.

5. Analyse the competition. List the competitors inside the market to be served, those outside who might affect the markets served and any potential competition. Give your perception and analysis of the market strategies and expected results in terms of relative strength, market shares and prices.

6. Explain the strategies you shall follow to capture a share of each product market and the results you expect to achieve. Use a sample format to present a summary of your expectations.

*(b) Plans and Objectives*

7. Review major planning assumptions used in the analysis and in setting the plans and objectives for a new company. Include at least the following market growth, interest rates, cost of funds and competition.

8. Projections shall show the expected asset and liability mix, volume for each type of services, fixed asset investments and officer and staff remuneration. Projections shall be based on the planning assumptions which shall be submitted as part of the application, market analysis, and strategies discussed above. Discuss the advantages and disadvantages of the proposed asset and liabilities mix, including a net interest margin analysis, and any actions which may be taken to reduce major risks through appropriate funds management techniques and systems.

9. Discuss the formula or basis used to arrive at the proposed capital structure and an explanation of why the promoters believe the proposed amount is sufficient in light of given market factors, strategies, and expenses. Promoters are expected to raise an amount sufficient to effectively compete in the market and adequately support planned operations in addition to all organizational expenses. The Bank may require a higher amount to maintain capital adequacy to support operations projected through the end of the company's fourth year.

10. Discuss plans for raising capital initially and to finance growth within the first four years.

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*(c) Policy and Procedures*

**11.** Policies are a set of broad statements establishing the concept and objective parameters for type, limits for maturities, pricing criteria and standards to be fulfilled by lessees, aggregate and individual concentration limits, and authority and procedures for collection and charge-offs.

**12.** Manual must be prepared comprising of detailed guidelines for implementing the stated policies. The manual generally may address proper lessee's financial information; files maintenance; enforcement of repayment schedules; and periodic review and other reports to be generated and distributed.

**13.** Policies and manuals need to cover all the steps of administration which include initiation, investigation and analysis, procedures for approval, renewals and extensions, documentation and procedures for re-possession.

**14.** The structure shall in principle reflect the nature and scope of the intended activities of the company and the mechanism by which the management envisages to govern the company and to monitor as to what extent the objectives of the company are achieved.

**15.** The structure shall show the relationships between the board and management. It should also show the composition of various departments of the company. The structure should also indicate the number of staff envisaged for each unit. Units such as internal audit, legal services and others shall be indicated.

**16.** The promoters shall be able to show the names of specific persons that are envisaged to take certain key positions in the company. If the actual persons cannot yet be identified, promoters shall indicate the requirement clearly in terms of training, experience and personal characteristics.

**17.** Promoters are required to disclose how the proposed a Housing finance company will develop the professional and technical skills of their staff and Tanzanians will be employed, trained and occupy positions of senior or managerial ranks in the company. All future plans shall be indicated.

*(d) Financial Projections*

Promoters shall prepare projected balance sheets, income statements and cash flow statements. Promoters shall submit statements that reflect their assets, liabilities, and capital projections for the number of years projected to reach profitability; however, a minimum of four years shall be displayed.

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THIRD SCHEDULE  
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*(Made under regulation 10)*

The Governor  
Bank of Tanzania  
2 Mirambo Street  
11884 Dar es Salaam  
TANZANIA

Re: Application for a Licence to carry out Mortgage Finance business

Sir,

We, the undersigned, hereby apply for a License to carry out Mortgage Finance business in Tanzania to be known as \_\_\_\_\_ with principal place of business at \_\_\_\_\_

The proposed Housing finance company shall have an authorized share capital of \_\_\_\_\_ Tanzanian shillings and paid up capital of \_\_\_\_\_ Tanzanian shillings which shall be contributed by the following subscribers:

Subscribed Shares

	Name of Subscriber	Number	Amount	Amount Paid-up	Percentage of Ownership
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____
6.	_____	_____	_____	_____	_____
7.	_____	_____	_____	_____	_____
8.	_____	_____	_____	_____	_____
9.	_____	_____	_____	_____	_____
10.	_____	_____	_____	_____	_____
11.	_____	_____	_____	_____	_____
12.	_____	_____	_____	_____	_____
13.	_____	_____	_____	_____	_____
14.	_____	_____	_____	_____	_____
15.	_____	_____	_____	_____	_____
16.	_____	_____	_____	_____	_____
17.	_____	_____	_____	_____	_____
18.	_____	_____	_____	_____	_____
19.	_____	_____	_____	_____	_____
20.	_____	_____	_____	_____	_____
	Total				

We jointly and severally make a firm commitment to deposit the total amount of paid up capital for the proposed Housing finance company with any bank registered in Tanzania such deposit to be made not later than thirty days after grant of this application.

In support of this application, we submit herewith the documents listed in the accompanying checklist. We certify the correctness of all the information indicated in such documents to the best of our knowledge and belief.

We hereby authorize the Bank of Tanzania and any of its authorized agents or staff members to make an enquiry or obtain any information from any source for the purpose of determining the correctness of all the representations made in connection with this application or of assessing its merits.

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To facilitate communication between us, we have authorized ..... to represent all of us in regard to this application. It is understood that any notice to him shall constitute sufficient notice to all of us.

Enclosed is evidence for payment of Tanzanian Shillings ten million being non-refundable application fee.

Yours faithfully,

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FOURTH SCHEDULE  
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*(Made under regulation 12)*

CHECKLIST OF DOCUMENTS

1. Letter of application in the prescribed form.
2. Proposed Memorandum and Articles of Association.
3. Proof of source and availability of funds for investment as capital of the proposed company.
4. List of subscribers and proposed members of board of directors and Chief Executive Officer.
5. Proof of citizenship of every subscriber and every proposed director and senior management officer. This includes detailed curriculum vitae, photocopy of the pages of the passport which contain personal information and two recent passport size photographs.
6. Audited balance sheet, income statement and cash flow for the last three years, of every subscriber who owns five per cent or more of the share capital of the proposed housing finance company.
7. Certified copies of annual returns of every subscriber who owns five per cent or more of the share capital of the proposed company and every proposed member of the board of directors and Chief Executive Officer together with accompanying schedules or financial statements filed during the last three years with relevant Authority.
8. Certified copies of tax returns of every subscriber who owns five per cent or more of the share capital of the proposed company and every proposed member of the board of directors and Chief Executive Officer together with accompanying schedules or financial statements filed during the last three years with relevant Tax authorities together with respective tax clearance certificates.
9. Statements from two persons who are not relatives vouching for the good moral character and financial responsibility of the subscribers who own five per cent or more of the share capital of the proposed company and the proposed directors and Chief Executive Officer.
10. Declaration that the funds to be invested have not been obtained criminally or associated with any criminal activity.
11. Business plan for the first four years of operations including the strategy for growth, branch expansion

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plans, dividend payout policy, career development programme for the staff and budget for the first year.

12. Projected annual balance sheets, annual income statements and annual cash flow statements for the first four years of operation.
13. Brief description of economic benefits to be derived by Tanzania and the community from the proposed company.

FIFTH SCHEDULE

*(Made under regulations 39, 49 and 51)*

**TABLE I**

**CLASSIFICATION BY QUANTITATIVE CRITERIA**

NUMBER OF DAYS PAST DUE	CLASSIFICATION
91 - 180	Substandard
181 - 360	Doubtful
361 and more	Loss

**TABLE II**

**CLASSIFICATION OF RECEIVABLES**

NUMBER OF DAYS PAST DUE	CLASSIFICATION
31 - 60	Especially mentioned
61 - 90	Substandard
91 - 180	Doubtful
181 and above	Loss

**TABLE III**

**MINIMUM PROVISIONS**

	CLASSIFICATION	PERCENTAGE
a.	current	one percent
b.	especially mentioned	three percent
c.	substandard	twenty percent
d.	doubtful	fifty percent
e.	loss	hundred percent

Dar es Salaam  
....., 2015

BENNO J. NDULU,  
*Governor*