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THE MICROFINANCE ACT,
(CAP. 407)

REGULATIONS

(Made under section 60(1) and (2))

THE MICROFINANCE (SAVINGS AND CREDIT COOPERATIVE SOCIETIES)
REGULATIONS, 2019

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THE MICROFINANCE ACT,
(CAP.407)

REGULATIONS

(Made under section 60(1) and (2))

THE MICROFINANCE (SAVINGS AND CREDIT COOPERATIVE SOCIETIES)
REGULATIONS, 2019

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Microfinance (Savings and Credit Cooperative Societies) Regulations, 2019.
- Application 2. These Regulations shall apply to all microfinance service providers under Tier 3.
- Interpretation 3. In these Regulations, unless the context requires otherwise-
- Act No. 10 of 2018 “Act” means the Microfinance Act;
“agent banking” means the business of providing banking services to customers of a banking institution on behalf of the banking institution under a valid agency agreement;
- Cap. 197 “Bank” has the meaning ascribed to it under the Bank of Tanzania Act;
“branch” means a place of business of a SACCOS other than its main registered office which is authorized by the Bank or Delegated Authority to administratively operate as a branch;
“cease and desist order” means an administrative order of the Bank or Delegated Authority against a SACCOS to stop any unsafe or unsound practice;

- Cap. 185 “COASCO” means the Cooperative Audit and Supervision Corporation established under the Cooperative Audit and Supervision Act;
- “Commission” means the Tanzania Cooperative Development Commission established under the Cooperative Societies Act;
- “consumer” means a client or member of a microfinance service provider who acquires or intends to acquire the services of the microfinance service provider;
- “core capital” means fully paid up membership shares, statutory reserve fund, retained earnings, capital grants and donations that are not transitory in nature and are not meant to be paid out unless on liquidation of a SACCOS;
- “credit reference bureau” means an entity specialized in collecting and sale of credit performance information for individuals and entities;
- “Delegated Authority” has the meaning ascribed to it under the Act;
- “loan participation” means a process where one or more SACCOS borrow from a financial institution by guaranteeing another SACCOS pursuant to a written agreement;
- Cap.394 “micro insurance” has the meaning ascribed to it under the Insurance Act;
- “micro leasing” means finance leasing operations where the average value of the asset in the portfolio is up to ten million shillings and the leasing term does not exceed twenty four months;
- “microfinance business” means the deposit and non-deposit taking business and includes-
- (a) receiving money, by way of deposits or interest on deposits or borrowing and lending to members or clients;
 - (b) accepting savings and providing loans or other credit facilities to micro or small enterprises and low income households or individuals;
 - (c) providing micro credit, micro savings, micro-insurance, micro-leasing, micro-pension and micro-housing finance;
 - (d) transfer and payment services, including digital

- microfinance services;
- (e) undertaking commodity microfinance business including provision of commodity loans;
- (f) providing financial education; and
- (g) any other related service as may be prescribed in the regulations;
- “microloan” means a loan provided to small enterprises, household and individuals;
- “Minister” means the Minister responsible for finance;
- Cap. 423 “money laundering” has the meaning ascribed to it under the Anti-Money Laundering Act;
- “outlet” means a place of business of a SACCOS other than a branch authorized by the Bank or Delegated Authority to carry out limited SACCOS operations;
- “place of business” means a branch, office, agency, outlet or mobile unit of a microfinance service provider open to the public;
- “Register” means a register of SACCOS licensed under the Act;
- Cap. 211 “SACCOS” means Savings and Credit Cooperative Societies registered under the Cooperative Societies Act;
- “Tier 3” means a category of microfinance service providers comprising of SACCOS.

PART II LICENSING

Prohibition of unlicensed microfinance business

4.-(1) A SACCOS shall not carry out any microfinance business, unless such SACCOS is licensed by the Bank or Delegated Authority in accordance with the provisions of the Act.

(2) Any SACCOS which contravenes provisions of subregulation (1) commits an offence and shall, upon conviction be liable to penalty prescribed under section 16 of the Act.

Licensing application and requirements

5.-(1) A SACCOS shall apply for a license to carry out microfinance business under category A or B to the Bank or Delegated Authority in a form set out in the First Schedule to these Regulations.

(2) An application referred to under subregulation (1) for category A licence shall be accompanied with-

- (a) certified copy of the current by-laws of the SACCOS for the purpose of licensing;
- (b) certified copy of registration certificate issued by the Commission;
- (c) full names and addresses of the board members, supervisory committee members and officers of the SACCOS;
- (d) curriculum vitae and certified copies of academic and professional certificates for board members and senior officers;
- (e) copy of the lending policy;
- (f) copy of the Tanzania national identity card, voters registration card, passport or any other identity acceptable by the Bank or Delegated Authority for each board member and senior officer;
- (g) two passport size photographs of board members and senior officers;
- (h) evidence of adequate safekeeping facilities and security for cash in the business premises;
- (i) resolution of the general meeting to apply for a licence;
- (j) proof that the SACCOS has employed or has contracted an internal auditor responsible for monitoring, among other duties, the correct and effective implementation of the internal control system; and
- (k) proof that the SACCOS has a Management Information System.

(3) An application referred to under subregulation (1) for category B licence shall be accompanied with-

- (a) all items listed under subregulation (2) to these Regulations;
- (b) business plan for three years of operations that includes:
 - (i) the mission statement;
 - (ii) organizational structure;
 - (iii) products and services;

- (iv) branch expansion plans if applicable;
 - (v) strategy for growth; and
 - (vi) projected statement of financial position, income statements and cash flow statements and the assumptions used to make the projections for the three years of operations;
- (c) policies for investments, human resources, savings, liquidity, finance, collections and internal procedures and control manuals; and
- (d) evidence that there is adequate insurance coverage.

(4) An application for licence shall be accompanied with payment of a non-refundable application fee of one hundred thousand shillings for category A licence and three hundred thousand shillings for category B licence.

Determinati
on of
application

6.-(1) The Bank or Delegated Authority shall, within sixty days upon receipt of a complete application, determine the application and upon being satisfied, issue a licence.

(2) Where the Bank or Delegated Authority receives incomplete documents for the purpose of licensing, the Bank or Delegated Authority may, before determining the application, require the applicant to-

- (a) submit the missing or additional documents or information; or
- (b) rectify or amend anomalies related to licensing requirements.

Inspection
before
granting
licence

7. Prior to granting a licence, the Bank or Delegated Authority may perform an inspection of the SACCOS' business premises, communication facilities, accounting and internal control systems.

Licence

8.-(1) Where the prescribed licensing terms and conditions are met, the Bank or Delegated Authority shall provide a SACCOS with a licence in the form set out in the Second Schedule to these Regulations.

(2) A licence issued shall remain in force unless suspended or revoked in the manner provided for in the Act.

(3) A licence issued under these Regulations shall expire where the licenced business has not commenced within six months from the date the licence was issued, unless the Bank or Delegated Authority extends such period in writing.

Refusal to
issue
licence

9.-(1) The Bank or Delegated Authority may refuse to issue a licence where-

- (a) the applicant has failed to meet the prescribed terms and conditions for licensing; or
- (b) the applicant has provided false or misleading information.

(2) Where the Bank or Delegated Authority has refused to issue a licence, it shall within seven days from the date of its decision, notify the applicant in writing and state the reasons for such refusal.

(3) An applicant whose application has been refused may reapply, if the irregularities that formed the basis for refusal of the initial application or subsequent review have been corrected.

Appeals

10.-(1) An applicant who is aggrieved by the decision of the Bank or Delegated Authority under regulation 9 may, within twenty one days from the date of such decision-

- (a) in the case of a decision by the Delegated Authority, appeal to the Bank; or
- (b) in the case of a decision of the Bank, appeal to the Minister.

(2) The appeal made under subregulation (1) shall be in writing and shall clearly state-

- (a) the nature of the appeal;
- (b) the grounds for the appeal; and
- (c) any other relevant matters.

(3) The Minister shall determine the appeal in accordance with the provisions of the Microfinance (Roles of the Minister) Regulations, 2019.

G.N. No.
575 of 2019

(4) Subject to subregulation (1), the Bank shall, within sixty days from the date of receipt of the appeal, determine the appeal.

(5) In determining the appeal, the Bank may require the appellant to furnish all necessary information and documents which form the basis of the appeal.

Upgrading
of
SACCOS
licence

11.-(1) Where upon assessment, the Bank or Delegated Authority is satisfied that a SACCOS licenced under category A meets the minimum capital requirement for SACCOS licenced under category B, the Bank or Delegated Authority may direct such SACCOS to apply for licence under category B.

(2) Where a SACCOS without reasonable cause, fails to comply with the directive issued under subregulation (1), the Bank or Delegated Authority shall take such measures as may be appropriate to ensure compliance.

Revocation
of licence

12.-(1) The Bank or Delegated Authority may, by notice to the SACCOS, revoke a licence where the SACCOS-

- (a) ceases to carry on microfinance business;
- (b) violates the terms and conditions prescribed in the licence;
- (c) is wound up, liquidated or otherwise dissolved;
- (d) is deregistered under the relevant law; or
- (e) has contravened the provisions of the Act.

(2) The Bank or Delegated Authority shall, within fourteen days of the revocation, cause the name of the microfinance service provider whose licence has been revoked to be published in the *Gazette* and in a newspaper of wide public circulation.

Permissible
and
prohibited
activities

13.-(1) A SACCOS with category A licence may carry out any of the following activities:

- (a) offering membership and voluntary shares;
- (b) accepting savings from its members;
- (c) granting loans to its members;
- (d) making investments; and
- (e) such other activities as may be authorized by the Bank or Delegated Authority.

(2) A SACCOS with category B licence may carry out any of the following activities:

- (a) all activities under subregulation (1) to this regulation;
- (b) accepting deposits from its members;
- (c) loan participations;
- (d) microleasing;
- (e) microinsurance as an agent of insurers;
- (f) agent banking with prior approval of the Bank or Delegated Authority;
- (g) equity investment;
- (h) debit cards; and
- (i) such other activities as may be authorized by the Bank or Delegated Authority.

(3) Unless otherwise authorized by the Bank or Delegated Authority, a licensed SACCOS shall not engage in any of the following activities-

- (a) operating current accounts for its customers;
- (b) accepting deposits from non-members;
- (c) foreign exchange business;
- (d) foreign trade operations;
- (e) trust operations;
- (f) credit cards;
- (g) payment orders and transfer of funds;
- (h) any business other than providing financial products and services to its members; and
- (i) such other activities as prescribed by the Bank or Delegated Authority.

Place of
business

14.-(1) Every SACCOS shall-

- (a) have a place or places of business with proper address for carrying out its microfinance business; and
- (b) prominently display its business name at the place of business.

Opening of
branches

15.-(1) A SACCOS with category B licence that intends to open a branch to expand its operations shall, in writing, request the Bank or Delegated Authority for approval.

(2) The request made under subregulation (1) shall be accompanied with the following:

- (a) the proposed location of the branch;
- (b) purpose and objectives for opening a new branch;
- (c) detailed budget and source of funds for establishment of the branch;
- (d) projected balance sheet and income statement for two years after the start of proposed branch operations;
- (e) proposed branch organisational structure, names and curriculum vitae of key staff at the branch; and
- (f) any other information as the Bank or Delegated Authority may require.

(3) In assessing the request under subregulation (2), the Bank or Delegated Authority shall take into consideration-

- (a) viability of the proposed branch;
- (b) financial capacity of the SACCOS to fund the proposed branch;
- (c) whether the SACCOS meets the minimum capital requirement;
- (d) competence and ability of the proposed branch staff;
- (e) whether the proposed branch meets the minimum security requirements; and
- (f) any other factor as may be determined by the Bank or Delegated Authority.

(4) The Bank or Delegated Authority may undertake an inspection of the proposed branch premises before commencement of operations.

(5) A SACCOS with category A licence shall not open a branch.

Relocation
of place of
business

16.-(1) A SACCOS that intends to relocate a place of business shall, in writing, request the Bank or Delegated Authority for approval and the request shall be accompanied with the following information:

- (a) reasons for relocation;
- (b) plan for settlement or transfer of claims, assets and liabilities;
- (c) completion of preparations for the new place of

business; and

(d) any other information as the Bank or Delegated Authority may prescribe.

(2) A SACCOS which fails to comply with the requirements of this regulation commits an offence.

Operating
outlet

17.-(1) A SACCOS shall not open or operate an outlet without prior written approval of the Bank or Delegated Authority made pursuant to the provisions of these Regulations.

(2) The request for approval made under subregulation (1) shall be accompanied with the following:

(a) the security features and space available for offering SACCOS' products and services; and

(b) any other information as the Bank or Delegated Authority may require.

PART III
CAPITAL ADEQUACY

Minimum
capital
require-
ments

18.-(1) A SACCOS with category A licence shall commence operations with and maintain at all times a minimum core capital of ten million shillings .

(2) A SACCOS with category B licence shall commence operations with and maintain at all times a minimum core capital of two hundred million shillings.

(3) Every SACCOS shall at all times maintain-

(a) core capital of not less than eight percent of total assets;

(b) institutional capital of not less than six percent of total assets; and

(c) net institutional capital of not less than six percent of total assets.

(4) Without prejudice to subregulations (1) and (2), the Bank or Delegated Authority may require higher minimum capital or capital adequacy ratios for a SACCOS if the SACCOS-

(a) is likely to incur losses resulting in a capital deficiency;

(b) has significant exposure to risk;

(c) has a high or particularly severe volume of poor quality assets; or

(d) is growing rapidly without adequate capitalization and risk management.

Prohibition
on capital
transfer

19. Unless otherwise authorized by the Bank or Delegated Authority, a SACCOS shall not transfer funds from the core capital or statutory reserve fund if the institutional capital ratios are less than the minimum ratios required.

Distribution
of net
surplus

20. Subject to its by-laws, a SACCOS may distribute any remaining net income after all expenses and costs have been paid and capital requirements met for the following purposes-

(a) dividends on shares in form of cash or deposited

- Cap. 211
- into the member shares;
 - (b) contribution to a development fund or transitory capital account;
 - (c) contribution to any charitable, educational, medical or other purpose in accordance with the Cooperative Societies Act;
 - (d) payment of honoraria to the board and other unsalaried officers; and
 - (e) such other payments as approved by the annual general meeting.

Reserve funds

21. Every SACCOS shall build a reserve fund and institutional capital by retaining at least twenty percent of the net income after all expenses and costs have been paid.

Payment of dividends, interest and other distribution

22.-(1) Subject to section 37 of the Act, every SACCOS shall provide in its by-laws for compulsory payment of dividends, interest or any other form of distribution to its members including the manner and period in which such payment shall be made.

(2) Notwithstanding subregulation (1), no payment of dividends or any other form of distribution from the net income shall be effected unless-

- (a) institutional capital and net institutional capital to total assets ratios meet the minimum requirement established;
- (b) the amount in the statutory reserve fund is adequate to cover accumulated SACCOS losses;
- (c) statutory reserve fund, bad and doubtful debt provision and share transfer fund have been set aside; and
- (d) prior approval of the general meeting and the Bank or Delegated Authority has been obtained.

Require-ment of capital restoration plan

23.-(1) Where a SACCOS fails to meet minimum capital requirements as provided under these Regulations, such SACCOS shall, within sixty days of the shortfall, submit to the Bank or Delegated Authority a capital restoration plan.

(2) The capital restoration plan provided under subregulation (1) shall at a minimum state the following-

- (a) the action to be taken by management to increase the capital back to the minimum requirement;
 - (b) time frame for restoration of capital to the minimum requirement;
 - (c) the level of capital to be achieved at the end of each quarter; and
 - (d) any other information as the Bank or Delegated Authority may require.
- (3) Where a SACCOS fails to meet its minimum capital requirement and has failed to submit or implement capital restoration plan, the Bank or Delegated Authority may take such administrative measures as may be appropriate.

PART IV GOVERNANCE

Composi-
tion and
duties of
Board

Cap. 211

24.-(1) Subject to section 7 of the Act, governance of SACCOS shall be as provided in the Cooperative Societies Act, its Regulations and SACCOS by-laws.

(2) Every SACCOS shall have a board, which is composed of at least five members elected in accordance with the provisions of the Cooperative Societies Act.

(3) Without prejudice to subregulation (2), the board of a SACCOS with Category B licence shall have at least two members with knowledge of either finance, business management, accounting, microfinance or economics.

(4) The board referred to under subregulation (2) shall, in addition to the duties provided under the Cooperative Societies Act-

- (a) ensure the SACCOS operates effectively and complies with the provisions of the Act, these Regulations and any other relevant legislation;
- (b) establish appropriate policies for lending, liquidity and asset liability management, human resources, investments, savings, finance, information preservation, and other policies as determined by the board;
- (c) make proposals for external borrowings;
- (d) ensure the accounts of the SACCOS are prepared and audited according to the Act, these

- Regulations and by-laws;
- (e) set the interest rates for loans, savings and deposits;
 - (f) propose share dividend payments to the annual general meeting, with the approval of the Bank or Delegated Authority;
 - (g) upon delegation by the annual general meeting, appoint the credit committee, and any other relevant committee from among the board members or other qualified members;
 - (h) develop, with the assistance of management, succession and disaster recovery plans and ensure the plans are tested periodically;
 - (i) provide oversight guidance and policy direction on the SACCOS;
 - (j) ensure the SACCOS make adequate provisions as required by these Regulations;
 - (k) review the SACCOS annual budget and make recommendations to the general meeting for approval;
 - (l) approve all loans made to board and committee members, SACCOS management and their related parties;
 - (m) ensure that investment of excess liquidity complies with the Act, these Regulations and is in accordance with the SACCOS investment policy;
 - (n) hire managers and arrange for their appointment on contracts; and
 - (o) oversee the opening and use of SACCOS bank accounts.

Vetting and disqualification of board members

25.-(1) A SACCOS shall not operate unless its board members have been vetted by the Bank or Delegated Authority.

(2) The Bank or Delegated Authority may disqualify a board member of a SACCOS where the Bank or Delegated Authority finds out that such board member-

- (a) has no required qualifications stipulated in the Act and these Regulations;
- (b) has engaged or is reasonably presumed to be

- engaged in dishonest or fraudulent activities;
- (c) has loans or other obligations delinquent for more than ninety days;
- (d) is found to have a conflict of interest that will affect his ability to serve as an impartial board member; and
- (e) is in breach of the provisions of any relevant legislation.

Cap. 211

(3) Where the Bank or Delegated Authority disqualifies a board member such Board member shall cease to transact any business of the board pending the removal procedures as provided for under the Cooperative Societies Act and Regulations made thereunder.

Appointment and duties of Credit Committee
G.N. No. 115 of 2016

26.-(1) Every SACCOS shall appoint a Credit Committee for the purpose of facilitating its operations in accordance with the requirements of the Cooperative Societies Savings and Credit Cooperative Societies Regulations and by-laws of the SACCOS.

(2) Without prejudice to subregulation (1), the Credit Committee shall have the following duties-

- (a) reviewing loan applications and make decisions within its authority and in accordance with the lending policy;
- (b) ensuring that adequate collateral is given for each loan and the SACCOS has a lien or control over the collateral until the loan is paid in full;
- (c) monitoring loan repayments;
- (d) ensuring that loans are used for the purpose for which they were given;
- (e) acting upon the request of the members with respect to amendment of the terms and conditions of a loan provided that such amendments are in line with SACCOS' lending policy;
- (f) providing counselling to members on the prudent use of credit;
- (g) reviewing lending policy at least once annually;
- (h) responding to queries raised by external and internal auditors, supervisory committee and the Bank or Delegated Authority; and

- (i) performing other duties in accordance with the Act and these Regulations.

Employment and responsibilities of SACCOS Manager

27.-(1) Every SACCOS shall be managed by competent and qualified personnel in accordance with the Cooperative Societies (Savings and Credit Cooperative Societies) Regulations and its approved human resources policy.

(2) Pursuant to subregulation (1), a person appointed to hold a position of a manager shall, in addition to the duties provided under the General SACCOS Regulations, have the following duties-

- (a) ensuring the operational and reporting systems are efficient, reliable and facilitate communication;
 - (b) preparing the annual budget and strategic business plan in consultation with the board members;
 - (c) managing all staff matters including human resource development and training;
 - (d) keeping proper financial records and timely preparation of financial statements;
 - (e) providing management reports at the board meetings;
 - (f) authorizing budgeted expenditures within the authority given by the Board;
 - (g) assisting the board in setting interest rates, fees and charges for all products and services offered;
 - (h) ensuring there is adequate liquidity to meet loan demands, savings withdrawals and operating expenses;
 - (i) overseeing the opening and use of bank accounts;
 - (j) preparing and submit regulatory reports timely;
 - (k) implementing recommendations set forth in the external audit, internal audit and inspection reports;
 - (l) ensuring compliance with the Act, regulations, policies, procedures, by-laws and the code of conduct; and
 - (m) performing other duties as may be assigned by the board.
- (3) Notwithstanding the provision of subregulations

(1) and (2), a person appointed to hold a position of the manager of the SACCOS shall-

- (a) in case of SACCOS with category A licence, hold at least a certificate of ordinary secondary education; and
- (b) in case of SACCOS with category B licence, hold at least a diploma in either finance, accounting, management or related fields.

(4) Every SACCOS shall ensure that no person is appointed to hold a senior position in the SACCOS unless such person is vetted by the Bank or Delegated Authority.

PART V LENDING OPERATIONS

Lending
policy

28.-(1) Every SACCOS shall have a lending policy consistent with the Act and these Regulations.

(2) The policy referred to under subregulation (1) shall at a minimum include the following:

- (a) lending procedures and documentation;
- (b) loan eligibility requirements;
- (c) types of loans and acceptable collaterals;
- (d) loan limits including maximum loan limit per borrower and per product ;
- (e) terms and conditions such as interest rates, fees and charges and frequency of payments;
- (f) penalties for late repayment;
- (g) loan limits as compared to the collateral value;
- (h) determination of the borrower's ability to repay the loan;
- (i) terms and conditions for loans to officers and employees;
- (j) maximum loan approval levels for the technical and credit committees;
- (k) loan guarantee requirements;
- (l) monitoring and evaluation of credit quality;
- (m) grace period, if applicable;
- (n) loan recovery and follow-up procedures.
- (o) the criteria and procedure, for restructuring of loans and transfer of member's voluntary shares

- including approval and authorization;
- (p) the criteria and procedure for approval and authorization required for writing off bad debts;
- (q) loan maturity time provided that such time does not exceed five years;
- (r) relevant forms used for loan application; and
- (s) any other relevant information.

Loan application

29.-(1) A SACCOS shall ensure that every member who intends to obtain a loan submits an application to the SACCOS using a standard form prescribed by the SACCOS.

(2) The standard form referred to under subregulation (1) shall at a minimum contain the following particulars-

- (a) applicant's full name;
- (b) date of birth or date of registration
- (c) place of residence or place of business
- (d) occupation or type of business;
- (e) the loan purpose;
- (f) economic sector;
- (g) the loan amount requested;
- (h) the collateral offered;
- (i) marital status;
- (j) number of dependents;
- (k) place of employment;
- (l) current income;
- (m) expenses and assets;
- (n) other outstanding loans; and
- (o) such other information as may be required.

(3) Without prejudice to subregulation (2), the loan application form shall contain a requirement that the applicant shall provide consent and declaration that his credit information may be shared in accordance with the requirements of the Act and these Regulations.

Loan approval

30.-(1) A SACCOS shall not grant a loan without the approval of the credit committee.

(2) The credit committee shall not approve a loan unless the loan is partially or fully secured.

Loan agreement

31.-(1) A SACCOS shall consider a loan application in accordance with its lending policy and shall, if satisfied that a borrower meets the loan conditions and has the capacity to repay the loan, enter into a loan agreement with the borrower.

(2) The loan agreement referred to under subregulation (1) shall at a minimum contain the following:

- (a) loan amount;
- (b) nominal or stated annual interest rate;
- (c) all other fees charged;
- (d) effective annual interest rate that includes all fees charged;
- (e) loan repayment schedule that includes the number of installments, total amount of each installment indicating principal, interest and fees components separately, and due date of each payment;
- (f) sum of all payments until the loan is fully paid;
- (g) interest rate computation method;
- (h) late payment penalty;
- (i) debt recovery fees, charges or expenses;
- (j) notice of security interest for collateral used to secure the loan;
- (k) signatures of both the borrower and the microfinance service provider;
- (l) required savings or share amounts and if these funds may be used to pay past due loan payments; and
- (m) any other relevant disclosures as may be directed by the Bank or Delegated Authority.

Communicating reasons for loan refusal

32. Where a loan application is refused, the SACCOS shall within seven days communicate to the applicant the reasons for such refusal.

Loan security and collateral

33.-(1) A member may secure a loan by voluntary shares, savings, time deposits or goods provided that such loan shall not exceed ten percent of the core capital.

(2) Where a loan is not fully secured by voluntary shares, savings, time deposits or goods, the loan shall not exceed five percent of the core capital.

- (3) Before granting a loan, a SACCOS shall ensure that-
- (a) loan collateral is properly documented or registered;
 - (b) where the owner of the collateral is not the borrower, the borrower shall have a written legal authorization to use the collateral to secure the loan;
 - (c) a register of all collaterals which shall contain all necessary particulars of the collateral is maintained; and
 - (d) membership shares are not used as collateral for loan granted by SACCOS.

Loan
guarantee

34.-(1) A member may guarantee a loan advanced to another member provided that such member has adequate collaterals including voluntary shares, savings, time deposits and other acceptable collaterals.

(2) A SACCOS shall adequately inform every guarantor of the nature of his liability prior to signing an agreement creating guarantor's liability.

(3) Where a SACCOS recovers a loan from the guarantor, the SACCOS shall issue a written document acknowledging repayment of the loan.

Party
related
transactions

35.-(1) A SACCOS shall not grant a loan to a board or committee member or their related parties unless such a loan has been approved by the majority of the board members.

(2) A board or committee member shall excuse himself from the meeting in which his loan application is being discussed.

(3) A SACCOS shall not grant a loan to its employee or his related party unless such loan has been approved by the credit committee.

(4) A SACCOS shall not offer to an officer, employee or his related party rates, terms and conditions of a loan which are more favourable than those offered to other members.

(5) The aggregate amount of loans to employees and

officers shall not exceed five percent of total assets of the SACCOS.

(6) No officer or his related party shall receive anything of value or other compensation in connection with any loan made by the SACCOS unless approved by the general meeting and the Bank or Delegated Authority.

Setting
interest rate,
fee and
penalties

36. Unless otherwise directed by the general meeting, the Board may set the interest rates, fees and penalties for loan which shall be reviewed from time to time.

Loan
prepayment

37.-(1) A member may repay a loan prior to its maturity in whole or in part on any business day without being penalized.

(2) Subject to subregulation (1), where the loan is paid in full prior to its maturity, the borrower shall not be required to pay interest for the remaining period to maturity.

Terms and
conditions
for loan
participa-
tion

38.-(1) A SACCOS with category B licence may borrow or lend to another SACCOS for purposes of providing funding to meet liquidity short falls provided that-

- (a) a borrowing SACCOS shall not exceed the limit for external borrowings as provided in these Regulations;
- (b) the board members of the SACCOS have approved the borrowing or lending to other SACCOS;
- (c) the terms and conditions for borrowing or lending shall be evidenced by a signed written agreement between or among the participating SACCOS and such agreement shall be approved by the Bank or Delegated Authority; and
- (d) the provisions of regulations 33 and 34 shall apply *mutatis mutandis*.

(2) Where a SACCOS is not an original lender, such SACCOS shall-

- (a) participate only in loans it is able to grant;
- (b) have a policy in place which sets forth the loan underwriting standards prior to entering into a loan participation agreement;

- (c) participate only in loans made to members of another borrowing SACCOS;
- (d) retain the origin or copy of the written participation agreement and repayment schedule of the loan; and
- (e) obtain approval of the board for the disbursement of proceeds to the originating lender.

Delinquent loans

39.-(1) A SACCOS shall consider a loan as delinquent where-

- (a) the payment made is less than a full instalment;
- (b) one full loan repayment has been missed as per contractual terms;
- (c) the borrower has missed repayment for more than thirty days whether such repayment is for interest or principal loan; or
- (d) in case of a one-off repayment loan, total principal balance and interest are not repaid within thirty days after due date.

(2) The entire principal balance of a one-off repayment loan shall be considered delinquent where the missed payment was for interest only.

(3) Where a member of a SACCOS defaults in the repayment of a loan or of an instalment of a loan, such member shall not be granted another loan until pays the existing loan.

Loan classification and provisioning

40.-(1) Every SACCOS shall classify its loan portfolio into the following categories-

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

(2) The criteria for classifying loan portfolio shall be as follows-

Number of days past due	Classification
0 to 30 days	Current

31 to 90 days	Especially Mentioned
91 to 180 days	Substandard
181 to 365 days	Doubtful
More than 365 days	Loss

(3) The minimum amount of provisions for each category of classification shall be as follows -

Classification	Provision
Especially Mentioned	10%
Substandard	30%
Doubtful	50%
Loss	100%

Accrual of interest on delinquent loans

41.-(1) A SACCOS shall suspend the accrual of interest on delinquent loans and advances once a loan is delinquent for ninety days.

(2) Any accrued but uncollected interest on loans referred to under subregulation (1) shall be reversed and placed in suspense.

(3) A SACCOS may restore a loan placed on a non-accrual basis to an accrual basis provided that the borrower has regularized the loan.

Restructuring of loans

42.-(1) Subject to its lending policy, a SACCOS may restructure a loan provided that-

- (a) the loan shall not be restructured more than once; and
- (b) the loan shall not be upgraded into a better classification unless the borrower has paid fully and timely four consecutive instalments.

(2) A SACCOS shall report all restructured loans on a separate line on the statement of its financial position.

Loan write-off

43. (1) Subject to its lending policy, a SACCOS shall write-off a loan where-

- (a) the loan is delinquent for more than a year;
- (b) the SACCOS has lost contractual rights over the loan;
- (c) the loan proves to be uncollectible;

- (d) there is no realistic prospect of recovery as the court has ruled against the SACCOS in respect of that particular loan;
- (e) all collateral has been repossessed, valued and sold and the proceeds failed to cover the entire due amount; or
- (f) a SACCOS is unable to collect the loan and there is no collateral.

(2) Where a loan is written-off under these Regulations, a SACCOS shall ensure that-

- (a) such loan is maintained off-balance sheet;
- (b) efforts to collect the loan continue; and
- (c) information on such loan is kept confidential.

PART VI

LIQUIDITY AND ASSET LIABILITY MANAGEMENT

Asset
liability
management
policy

44.-(1) Every SACCOS shall formulate a liquidity and asset liability management policy.

(2) The policy referred to under subregulation (1) shall, at a minimum include the following-

- (a) the individual responsible for liquidity and asset liability management;
- (b) methods and ratios used to monitor liquidity including ratios set forth in these Regulations;
- (c) maximum cash holding limit;
- (d) frequency of analysing liquidity and asset liability management positions; and
- (e) contingent liquidity planning.

(3) The policy referred to under subregulation (1) shall be reviewed annually to ensure that the policy remains relevant and prudent.

(4) The liquidity and asset liability management policy shall be submitted to the Bank or Delegated Authority not later than thirty days after being approved by the board, provided that where any changes are made to the policy, the SACCOS shall clearly indicate areas affected by such changes.

- Liquidity contingency plan 45.-(1) A SACCOS shall prepare and submit to the Bank or Delegated Authority a copy of the liquidity contingency plan for dealing with liquidity stress scenarios approved by its board.
- (2) The liquidity contingency plan shall, at minimum include procedures for funding cash flow shortfalls, expected sources of funds, an assessment of the costs of alternative funding strategies and the impact on the capital of the SACCOS.
- Minimum liquid asset ratio 46.-(1) A SACCOS shall maintain minimum liquid assets amounting to not less than fifteen percent of its members' total deposits, savings, short term borrowings and other short term liabilities.
- (2) For the purposes of this regulation, "liquid assets" includes-
- (a) notes and coins which are legal tender in the United Republic;
 - (b) balances held at banks or microfinance service providers;
 - (c) treasury bills and bonds which are freely marketable and re-discountable at the Bank; and
 - (d) such other assets as the Bank or Delegated Authority may specify.
- Deposit in banks 47. Unless authorized by the Bank or Delegated Authority, a SACCOS shall not keep in a single bank or financial institution deposits of an amount in excess of twenty five percent of its core capital.
- External borrowing 48.-(1) Upon approval by the general meeting, a SACCOS may borrow from external sources provided that-
- (a) the borrowing is approved by the Bank or Delegated Authority; and
 - (b) its total external borrowings do not exceed twenty five percent of total assets.
- (2) For the purpose of this regulation, "external borrowings" means borrowings from non-members including banks and financial institutions.

Investment policy 49.-(1) Every SACCOS shall formulate an investment policy.

(2) The policy referred to under subregulation (1) shall, at least include the following-

- (a) permissible investments in accordance with the relevant laws;
- (b) investment limits in each category of investment;
- (c) identification of risks and mitigation strategies;
- (d) the individuals with authority to make investments;
- (e) types and frequency of reports to be submitted to the board; and
- (f) approval procedures and limits.

(3) The policy referred to under subregulation (1) shall be submitted to the Bank or Delegated Authority for approval and shall be reviewed annually to ensure that the policy remains relevant and prudent.

Investment requirements 50.-(1) A SACCOS shall not make an investment unless such investment-

- (a) complies with the approved investment policy;
- (b) complies with the requirements of the provisions of the Cooperative Societies Act;
- (c) has been approved by the general meeting of the SACCOS;
- (d) in case of financial investment, is made with intention of holding to maturity.

(2) A SACCOS may invest in-

- (a) interest bearing deposits of banks or financial institutions;
- (b) Government securities;
- (c) other SACCOS;
- (d) non-earning assets; or
- (e) any other investment as may be approved by the Bank or Delegated Authority.

(3) Where a SACCOS invests in non-earning assets, such investment shall not exceed-

- (a) ten percent of its total assets in case of investment in machines or equipment; and
- (b) five percent of its total assets in case of

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investment in land or buildings,
unless a waiver to that effect has been granted by the Bank or
Delegated Authority.

PART VII
ACCOUNTS AND AUDIT

Books of
accounts,
records and
financial
year

51.-(1) A SACCOS shall keep proper books of
accounts and other records in relation to its operations which
are sufficient to show and explain its transactions and
financial position.

(2) The books of accounts and records referred to
under subregulation (1) shall-

- (a) correctly explain all transactions, including all
applications for loans and all loan transactions;
- (b) enable the financial position of the SACCOS to be
determined with reasonable accuracy at any time;
- (c) allow for the timely preparation of financial
statements;
- (d) include underlying documentation which shall be
kept to reflect details of-
 - (i) all sums of money received and expended
and the matters in respect of which such
receipts and expenditures took place;
 - (ii) all sales and purchases and other
transactions; and
 - (iii) the assets and liabilities of the SACCOS.

(3) For the purpose of accounting, auditing and
reporting, a financial year of a SACCOS shall commence on
1st January and end on 31st December of each year.

Preparation
and
submission
of accounts

52. Every SACCOS shall, in each financial year,
prepare accounts and within four months from the end of
each financial year submit to the Bank or Delegated
Authority, copies of annual audited accounts and audit report.

Disclosure
of financial
statements

53.-(1) Subject to section 42 of the Act, every
SACCOS shall display in its place of business a copy of its
current audited financial statements.

(2) The audited financial statements referred to under

subregulation (1) shall-

- (a) include balance sheet, income statements, cash flow statements and statement of changes in equity;
- (b) be displayed in a conspicuous position in the public part of its principal place of business and in its branches and outlets; and
- (c) be displayed throughout the year.

Appoint-
ment of
internal
auditor

54.-(1) A SACCOS shall appoint an internal auditor to evaluate the adequacy and effectiveness of internal controls, risk management and governance processes.

(2) The internal auditor appointed under subregulation (1) shall, at a minimum, hold a diploma in accountancy or its equivalent and at least one year experience in the relevant field.

Reporting
by internal
auditor

55.-(1) An internal auditor shall report to the board.

(2) The reports of the internal auditor shall contain audit findings, recommendations and responses from the management.

Duties of
internal
auditor

56. The duties of the internal auditor shall include-

- (a) verification of cash, where necessary without prior notification;
- (b) bank account reconciliation;
- (c) reconciliations between the general ledger balances and the subsidiary ledger balances;
- (d) checking loan files for compliance;
- (e) verification of the SACCOS' assets and investments;
- (f) checking the adequacy of provisions for loan losses;
- (g) checking for compliance with policies and procedures;
- (h) checking for compliance with the Act, and other relevant legislation;
- (i) assessing regularity and completeness of minutes and management reports to the board and other committees;

- (j) assessing the adequacy of management information system;
- (k) assessing the accuracy and reliability of the accounting records and financial reports;
- (l) determining that reports and information submitted to the Bank or Delegated Authority are accurate and timely provided;
- (m) determining whether accounting procedures and controls are adequate;
- (n) verifying implementation and maintenance of the appropriate internal controls by the management;
- (o) ensuring that all internal and external audit findings and recommendations are implemented; and
- (p) assessing the efficiency of the usage of resources.

Internal
audit plan

57.-(1) An internal auditor shall prepare an annual audit plan for the assignments to be performed during the next financial year.

(2) The annual audit plan referred to under subregulation (1) shall, at least include-

- (a) the timing and frequency of planned internal audit work;
- (b) evaluation of internal controls;
- (c) details of the necessary resources in terms of personnel and other resources; and
- (d) the time allocated for training.

(3) The annual audit plan shall be presented to the supervisory committee for review and to the board for approval not later than 31st December each year.

Outsourcing
internal
auditor

58. A SACCOS may outsource internal audit function from a registered audit firm or qualified individual provided that, the audit firm or such qualified individual performs internal audit functions in accordance with these Regulations.

External
audit

59.-(1) The accounts of a SACCOS shall be audited at least once in a year by COASCO or any other competent and registered auditor appointed by the general meeting and approved by the Bank or Delegated Authority.

(2) Where a SACCOS fails to appoint an external auditor or to fill any vacancy for an external auditor which may arise, the Bank or Delegated Authority may appoint, on behalf of the SACCOS, an external auditor and fix his remuneration which shall be paid by the SACCOS.

(3) A SACCOS shall not remain without an external auditor for more than ninety days from the date the position falls vacant.

(4) Without prejudice to subregulation (1), an external auditor shall not perform the external audit of a SACCOS if such auditor-

- (a) is related to officers or employees of the SACCOS; or
- (b) is a member of the SACCOS.

External auditor to access employees

60. External auditors may have access to any present or former SACCOS officer or employee to obtain information necessary for the purpose of the particular auditing.

Reporting to Bank or Delegated Authority

61. An external auditor shall report to the Bank or Delegated Authority any irregularities or illegal acts committed by SACCOS officers, employees or as the case may be.

Presentation of audit report to Annual General Meeting

62. An external auditor shall present the audited financial statements and audit report before the Annual General Meeting.

Change of external auditor

63. A SACCOS shall not, in the course of performance of the audit work, change its external auditor except with the prior written approval of the Bank or Delegated Authority.

Rotation of external auditor

64.-(1) An external auditor other than COASCO shall not audit the same SACCOS for more than three consecutive years.

(2) Subject to subregulation (1), an external auditor

other than COASCO may resume the role as external auditor with the same SACCOS after a lapse of two years from the last audit engagement.

PART VIII
INSPECTION AND SUPERVISION

Inspection
of SACCOS

65.-(1) The Bank or Delegated Authority shall, in exercising its powers of inspection under the Section 13 of the Act, perform onsite and offsite inspection of SACCOS.

(2) The inspection referred to under subregulation (1) shall include the following-

- (a) ascertaining SACCOS compliance with its by-laws and policies in carrying out its operations;
- (b) examining operations and financial position of a SACCOS;
- (c) assessing the effectiveness of the instituted controls over operations, monies and other assets of a SACCOS;
- (d) analysing periodic reports submitted by SACCOS; and
- (e) any other matters as may be determined by the Bank or Delegated Authority.

(3) Upon the conclusion of onsite inspection under subregulation (1), the Bank or Delegated Authority may make and forward a copy of inspection report to the board or general meeting of the SACCOS.

(4) The board of the SACCOS shall ensure that appropriate actions are taken to address issues raised in the report.

(5) The inspection report prepared by the Bank or Delegated Authority shall be confidential.

Inquiry

66.-(1) The Bank or Delegated Authority may, upon request or application of a SACCOS member or creditor or receiving adverse information from any other source, conduct an inquiry into the operations or financial affairs of a SACCOS.

(2) Upon conclusion of an inquiry conducted pursuant to subregulation (1), the Bank or Delegated

Authority may make and forward a copy of inquiry report to the board or general meeting of the SACCOS and such report shall be treated as confidential.

(3) Where upon inquiry, the Bank or Delegated Authority finds anomalies, deficiencies, losses or misconduct of the board members or management, the Bank or delegated Authority may take administrative measures in accordance with these Regulations.

Submission of periodic reports

67. A SACCOS shall submit to the Bank or Delegated Authority periodic reports in the format and frequency to be prescribed by Bank or Delegated Authority.

Supervisory memorandum of understanding

68.-(1) Where it is found that a SACCOS is not performing well and normal supervision procedures cannot remedy the situation, the Bank or Delegated Authority may enter into a Supervisory Memorandum of Understanding with the board of the SACCOS to remedy the shortcomings.

(2) The memorandum of understanding entered under subregulation (1) shall set forth specific corrective or remedial actions to be taken by the SACCOS within a specified time and shall be signed by the board and the Bank or Delegated Authority.

(3) Where the SACCOS fails to comply with the actions and time frame in the Memorandum of Understanding, the Bank or Delegated Authority may revoke its licence.

Issuance of cease and desist order

69.-(1) The Bank or Delegated Authority may issue a cease and desist order directing the SACCOS to address the risky or unsound practices that have not been sufficiently addressed through other supervisory actions.

(2) The Bank or Delegated Authority may issue a cease and desist order where a SACCOS has-

- (a) engaged or continues to engage in any risky business practice;
- (b) violated or continues to violate the Act, these Regulations, its by-laws or policies; or
- (c) failed or continues to fail to comply with the Supervisory Memorandum of Understanding.

Manage-
ment and
take over

70.-(1) The Bank or Delegated Authority may take-over management of a SACCOS where-

- (a) the Bank or Delegated Authority considers that the SACCOS is not-
 - (i) in a sound financial position;
 - (ii) operating in accordance with sound administrative and accounting practices and procedures;
 - (iii) adhering to proper risk-management policies; or
 - (iv) complying with instructions issued by the Bank or Delegated Authority;
- (b) the SACCOS fails to comply with the minimum capital requirements prescribed in these Regulations;
- (c) the SACCOS refuses to be inspected by the Bank or Delegated Authority as required by the Act;
- (d) the SACCOS licence has been revoked; or
- (e) the SACCOS is undertaking microfinance business in a manner contrary to the Act or detrimental to the interests of its members .

(2) Upon take-over under subregulation (1), the Bank or Delegated Authority may utilize the services of private persons to manage the SACCOS if the Bank or Delegated Authority determines that doing so is the most practicable, efficient and cost effective manner.

(3) Costs of management of a SACCOS during the period of take-over shall be borne by the SACCOS.

(4) During take-over, no attachment or lien except a lien created by the Bank or Delegated Authority shall attach to any property or asset of the SACCOS.

End of
manage-
ment by
Bank or
Delegated
Authority

71.-(1) Management by the Bank or Delegated Authority shall cease upon improvement of the SACCOS' financial condition and operations or within six months, whichever happens earlier.

(2) The Bank or Delegated Authority may extend the six months period referred to under subregulation (1) where the financial condition and operations of the SACCOS have

not improved.

(3) All changes made by the Bank or Delegated Authority to the policies, procedures or management of the SACCOS during the period of management shall, unless otherwise directed by the Bank or Delegated Authority, remain valid upon termination of such management.

(4) The Bank or Delegated Authority shall, where the financial condition and operations of the SACCOS have not improved after the expiry of six months or the period extended by the Bank or Delegated Authority under subregulation (2), order liquidation according to the applicable law.

PART IX CONSUMER PROTECTION

Shares,
savings and
deposit
disclosure
require-
ments

72.-(1) Every SACCOS shall in writing disclose the terms and conditions for each share, savings and time deposit to its members and potential members.

(2) A SACCOS shall provide share, savings or deposit account statements to a member upon request.

(3) Where an account is held by more than one member or a loan is granted to more than one member, disclosures may be made to any one of the members.

(4) In the case of dividend-bearing accounts, the SACCOS may disclose past rates or the prospective dividend rate and prospective annual percentage yield and method used to calculate the dividend payment.

Disclosures
for interest
bearing
accounts

73.-(1) A SACCOS shall disclose the current interest rate and annual percentage yield as established by the board members and the method used to calculate the interest.

(2) Any disclosures made pursuant to subregulation (1) shall clearly state whether the account has a fixed or variable interest rate.

(3) Any disclosure made for fixed rate accounts shall include the period of time for which the rate is fixed and the time when interest begins to accrue and when interest payments will be made.

(4) For variable rate accounts, the disclosures shall

state the following-

- (a) the fact that the interest rate may change;
- (b) the way the interest rate is calculated;
- (c) whether an index is used to establish the variable rate; and
- (d) the time when interest begins to accrue and when the rate will change.

Additional disclosures

74. In addition to the disclosure requirements under regulation 72, a SACCOS shall disclose the following-

- (a) frequency of dividend or interest calculation and the time dividends or interest are paid;
- (b) forfeiture of dividends or interest by members when they close an account before dividends or interest have been credited to the account;
- (c) minimum balance requirements for opening an account;
- (d) fees associated with each type of account and the conditions under which the fee may be imposed;
- (e) any limitations on withdrawals; and
- (f) all services or products offered to its members.

Disclosures when account terms change

75. A SACCOS shall give advance written notice to members affected by account changes where-

- (a) the change reduces the annual percentage yield for share and saving accounts; or
- (b) the terms of share or savings have changed.

Loan disclosures

76. A SACCOS shall ensure transparency and full disclosure of its products and services by ensuring that, the loan agreement-

- (a) is legible and written in a simple and understandable language; and
- (b) contains terms and conditions that are transparent, fair and protect the rights of the borrower.

Resolution of complaints and disputes

77.-(1) Every SACCOS shall have a customer complaints handling and dispute resolution mechanism which shall at minimum include-

- (a) the manner in which a complaint shall be

submitted;

- (b) establishment of complaint handling desk or designated officer;
- (c) the time frame for settling disputes and providing feedback.

(2) Every SACCOS shall ensure that the customer complaints handling and dispute resolution mechanism and the relevant contact information including phone numbers or emails are displayed in a conspicuous position in the public part of its principal place of business and in its branches and outlets.

(3) The disclosures referred to in subregulation (2) shall be displayed in Kiswahili or both Kiswahili and English.

Disclosures
to loan
guarantors

78. A SACCOS shall give to the guarantor the disclosure statement in writing, indicating his liability for the loan guaranteed and such statement shall include-

- (a) the name and address of the SACCOS;
- (b) the loan number;
- (c) name of borrower;
- (d) loan amount;
- (e) date on which the loan was granted; and
- (f) the guarantor's signature.

Debt
collection
or recovery

79.-(1) Subject to section 51 of the Act, a SACCOS shall collect or recover a loan from a member in accordance with recovery procedures prescribed in its lending policy.

(2) For the purpose of ensuring that the procedures for debt collection or recovery comply with the consumer protection principles, a SACCOS shall-

- (a) issue a fourteen days written notice to the borrower before debt collection or recovery process is initiated;
- (b) not harass, abuse or oppress a borrower, guarantor or any person in connection with collection or recovery of a debt;
- (c) not threaten or use violence or illegal means in collecting or recovering a debt;
- (d) not use obscene or profane language; and

- (e) not use any false, deceptive, or misleading representation or means such as-
 - (i) false representation of character, amount, or legal status of any debt;
 - (ii) false representation or implication that any individual is an attorney or that any communication is from an attorney;
 - (iii) threat to take any action that cannot legally be resorted to or that is not intended to be taken; and
 - (iv) communicating or threatening to communicate to any person credit information that is false.

(3) A SACCOS shall not collect interest, fees, charges, or expenses unless they are prescribed in the loan agreement.

(4) A SACCOS may engage a debt collector to collect or recover a loan from a member provided that such debt collector-

- (a) has been registered by the Commission;
- (b) carries out debt collection or recovery in compliance with the requirements of subregulations (2) and (3) of this regulation; and
- (c) adhere to relevant laws governing debt recovery.

Financial
education

80.-(1) A SACCOS shall provide financial education to its members which at minimum shall cover the following subject matters-

- (a) key features of products and services offered;
- (b) terms and conditions of loans;
- (c) cash flow management;
- (d) record keeping;
- (e) financial decision making;
- (f) management of loans, usage and repayment;
- (g) business planning;
- (h) importance of saving;
- (i) and any other aspects considered relevant.

(2) Financial education referred to under subregulation (1) may be conducted through-

- (a) one on one sessions;

- (b) fliers and brochures;
- (c) training;
- (d) seminars;
- (e) workshops;
- (f) media such as television, radio and newspapers;
- (g) social networks or specific websites;
- (h) counselling sessions; and
- (i) any other manner as may be considered appropriate.

Compliance with financial consumer protection laws

81. Notwithstanding any provision in these Regulations, a SACCOS shall comply with laws governing financial consumer protection.

PART X GENERAL PROVISIONS

Business continuity plan

82.-(1) A SACCOS shall formulate a business continuity plan.

(2) The business continuity plan shall at least include the following-

- (a) the person or persons responsible for implementing, monitoring, evaluating and reviewing the plan;
- (b) the duties and responsibilities of the officers for assessing the situation, providing information, and establishing member service;
- (c) identification of alternative locations with the necessary equipment to maintain critical operations for a sufficient time period in the event of a disaster;
- (d) identification of the critical information needed to operate the SACCOS in case of disaster;
- (e) a security plan designed to protect the SACCOS' premises; and
- (f) a suitable standby power backup.

(3) The business continuity plan shall be reviewed and tested at least once annually.

Submission
of credit
information

83.-(1) A SACCOS shall, having ascertained the proper identities of borrowers, furnish the credit reference bureaux with detailed information about all credit facilities extended to each borrower, in the format that the Bank or Delegated Authority may prescribe.

(2) A SACCOS shall submit credit information on monthly basis for all existing and new credit facilities granted to a person to the credit reference bureaux.

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(3) A SACCOS shall access and use credit information through the credit reference bureau in a manner prescribed in the Bank of Tanzania (Credit Reference Bureau) Regulations.

(4) A SACCOS shall undertake to provide complete, accurate and timely credit information.

(5) Without prejudice to the requirements of this regulation, a SACCOS shall comply with the requirements of Bank of Tanzania (Credit Reference Bureau) Regulations.

(6) For the purpose of this regulation, “credit information” means any information including information about a person’s specific identification, full name, date of birth, place of residence, previous places of residence, marital status, spouse’s name, place of employment, previous places of employment, paying habits, outstanding debt obligations, assets and inquiries made of credit history or information relating to a legal entity or business that would identify the legal entity or business information on incorporation, tax, directors, governance, outstanding debt obligations, assets, inquiries made on credit history and other business details.

Consent to
share credit
information

84. A SACCOS shall ensure that all borrowers execute a written consent to allow the SACCOS to obtain from, exchange with or disclose all credit information relating to the borrowers, lenders or credit reference bureaux.

Admini-
strative
measures

85.-(1) Without prejudice to penalties and sanctions prescribed under the Act, the Bank or Delegated Authority may impose on any SACCOS any of the following administrative measures for non-compliance-

(a) prohibition from declaring or paying dividends;

- (b) prohibition from opening or establishing new branches or outlets;
- (c) suspension of lending and investment activities;
- (d) revocation of license;
- (e) a formal warning to a defaulting board member or manager;
- (f) suspension from office of the defaulting board member or senior management;
- (g) disqualification from holding any position or office in any SACCOS under the supervision of the Bank or Delegated Authority;
- (h) a penalty of the amount to be determined by the Bank or Delegated Authority of not less than five hundred thousand shillings and not more than five million shillings;
- (i) any other administrative measures as the Bank or Delegated Authority may prescribe.

(2) The measure referred to in subregulation (1)(a) shall apply to directors, officers or employees of the SACCOS.

Transformation of SACCOS

86.-(1) A SACCOS may, upon application and attaining the required criteria prescribed in relevant Regulations or any other relevant law, transform from Tier 3 to Tier 2 or Tier 1.

(2) A SACCOS shall not apply for transformation pursuant to sub regulation (1) unless-

- (a) such SACCOS has, in writing, informed the Bank or Delegated Authority of its intention to transform; and
- (b) its members have resolved to transform in accordance with its constitution or by-laws.

Transition period

87-(1) Pursuant to section 57 of the Act, a SACCOS which was operating a microfinance business before the commencement of the Act and which fails to meet the requirements for license within twelve months after the commencement of the Act shall close its business and cease to operate microfinance business.

(2) A person who contravenes this regulation commits

an offence and shall on conviction be liable to the penalty stipulated in section 16 of the Act.

Agreement
between
SACCOS
and
employers

88.-(1) Where a SACCOS intends to provide services to its members who are employees of any organization and whose shares, savings, deposits and loan repayments are made through deductions from employees' salaries, such SACCOS shall-

- (a) enter into an agreement with the employer providing for the following-
 - (i) terms and conditions for collection of shares, savings and deposits;
 - (ii) the requirements for deductions of loan repayments from the employees' salaries and remittance to the SACCOS;
 - (iii) obligations of the employer and SACCOS;
 - (iv) penalties or remedies for breach of the agreement; and
 - (v) any other relevant terms;
- (b) ensure that the agreement entered into is submitted to the Bank or Delegated Authority for vetting purposes.

(2) A SACCOS which fails to comply with the requirements of this regulation may be subjected to administrative measures as may be deemed appropriate by the Bank or Delegated Authority.

(3) For the purpose of this regulation, "services" include collection of shares, savings, deposits and provision of loans.

FIRST SCHEDULE

(Made under regulation 5(1))

APPLICATION FORM FOR A LICENCE

1. Name of the SACCOS:

Reg. No Date of Registration.....

2. Location of Registered Office.....

3. Physical Address of Head Office: L.R. No.....

Street.....

Building.....

4. Postal Address Postal Code.....

Telephone No.....

E-mail Address.

5. Where applicable, names of places of business in Tanzania and the number of years each has been established and has conducted or carried out business

<i>S/No.</i>	<i>Name of Branch/Agency/Outlet</i>	<i>Year Established</i>	<i>No. of Years in Operation</i>
1			
2			
3			
4			
5			
6			
7			

6. Where applicable, a list of other places of business. Provide name of the place of business, state whether it is a mobile unit, ATM or point of sale etc.

7. Former name(s), if applicable, by which the SACCOS has been known

Microfinance (Savings and Credit Cooperative Societies)

GN. NO. 675 (Contd.)

- 1.....fromto.....
 2.....fromto.....
 3.....fromto.....
 4.....fromto.....

8. Details of Capital

- (a) Paid-up value
 (b) Core capital
 (c) Institutional capital

9. Particulars of Officers:

a) Board Members

<i>Present & Former Name</i>	<i>DOB</i>	<i>Address</i>	<i>Date of Appointment</i>	<i>Other Board membership</i>
1				
2				
3				
4				
5				
6				
7				

(b) Senior Management

<i>Present & Former Name</i>	<i>Designation</i>	<i>Date of Birth</i>	<i>Academic/ Professional Qualifications</i>	<i>Year Obtained</i>	<i>Date of Appointment</i>	<i>Previous Employment</i>
1						
2						
3						
4						
5						
6						
7						

9. Names of Bankers and their Address

- 1. P. O. Box
- 2. P. O. Box
- 3. P. O. Box
- 4. P. O. Box

10. Has the SACCOS ever been put under receivership or made any compromise or arrangement with its creditors or otherwise failed to satisfy creditors in full? If so, give particulars

.....

SECOND SCHEDULE

(Made under regulation 8)

LICENCE NO. MSP3-

LICENCE TO CONDUCT MICROFINANCE BUSINESS

Issued under Section 20 of the Microfinance Act, 2018

CATEGORY.....

This LICENCE is issued to..... (Name of SACCOS) Reg. No.
.....of.....(Address) and authorizes the
said SACCOS to conduct microfinance business in Mainland Tanzania under Tier 3 with
category.....Licence.

This License is issued subject to the provisions of the Microfinance Act, 2018 and conditions set
forth in our letter with reference No.dated

Dated this..... day of

SIGNATURE

Dar es Salaam,
....., 2019

FLORENS LUOGA
Governor