

GOVERNMENT NOTICE NO. 679 Published On 13/9/2019

THE MICROFINANCE ACT
(CAP.407)

—
REGULATIONS
—

(Made under section 60)
—

THE MICROFINANCE (NON-DEPOSIT TAKING MICROFINANCE SERVICE PROVIDERS) REGULATIONS, 2019

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THE MICROFINANCE ACT
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THE MICROFINANCE (NON-DEPOSIT TAKING MICROFINANCE SERVICE
PROVIDERS) REGULATIONS, 2019

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Microfinance (Non-Deposit Taking Microfinance Service Providers) Regulations, 2019.
- Application 2. These Regulations shall apply to all microfinance service providers under Tier 2.
- Interpretation 3. In these Regulations, unless the context otherwise requires-
- Act No. 10 of 2018
Cap. 197 “Act” means the Microfinance Act;
“Bank” has the meaning ascribed to it under the Bank of Tanzania Act;
“capital” means permanent shareholders’ equity in the form of issued and fully paid ordinary shares and preference shares, capital grants, reserves and retained earnings;

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“credit company” has the meaning ascribed to it under the Act;

“credit reference bureau” means an entity specialized in collecting and sale of credit performance information for individuals and entities;

“digital microfinance lender” means a microfinance service provider carrying out lending activities, from loan application, approval, disbursement and repayment through digital channels;

“financial organization” has the meaning ascribed to it under the Act;

“foreign owned microfinance service provider” means a microfinance service provider incorporated in Tanzania and whose majority owners or shareholders are foreigners;

“housing microfinance loan” means unsecured or secured loan issued to a household in rural and urban areas to build, repair or improve existing houses.

“individual money lender” means a person licensed to undertake microfinance business of lending money in accordance with the provisions of the Act;

“MEMARTS” means memorandum and articles of association;

“Minister” means minister responsible for finance;

“proprietor” means an individual money lender;

“significant subscriber” means a subscriber or a shareholder who owns five percent or more of the voting shares of a microfinance service provider;

“Tier 2” means a category of non-deposit taking microfinance service providers including credit companies, financial organizations, housing microfinance companies, individual money lenders and digital microfinance lenders.

PART II
LICENSING

- | | |
|---------------|---|
| Establishment | 4. A person who intends to undertake microfinance business under Tier 2, shall - |
| Cap.213 | (a) formally be established under the Companies Act or any other relevant laws; or |
| | (b) in case of individual money lender, register a business name as a sole proprietor under the Business Licensing Act. |
| Name of | 5. The business name of a microfinance service |

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microfinance
service provider

provider under Tier 2 shall include either of the following words “microfinance”, “finance”, “financial services”, “credit” or “microcredit”.

Application for
licence

6.-(1) A person who intends to carry a microfinance business as a microfinance service provider under Tier 2, shall apply to the Bank for a licence.

(2) Subject to subregulation (1), an application for a licence, shall be in the form set out in the First Schedule.

(3) An application referred to under subregulation (1) shall be signed by an applicant or an authorized signatory of the applicant and be accompanied with-

- (a) non-refundable application fee of five hundred thousand shillings in case of an entity;
- (b) a non – refundable application fee of three hundred thousand shillings in case of an individual money lender;
- (c) documents and information listed in the Second Schedule; and
- (d) any other document or information as may be required.

(4) An application made by a foreign owned microfinance service provider shall, in addition to the requirements stipulated under subregulation (3), be accompanied with-

- (a) a training plan indicating specific time frames for imparting microfinance skills and expertise to Tanzanian staff; and
- (b) a succession plan and strategies on mode, time and contents of the extent to which Tanzanian staff shall occupy senior management positions in the microfinance service provider.

Integrity of
shareholders and
proprietor

7. The Bank shall consider the history of the proposed shareholders or proprietor in assessing the applicant’s reputation and integrity in past and present business practices.

Financial capacity

8.-(1) The Bank shall evaluate the financial capacity of the applicant.

(2)The soundness of an applicant’s financial position shall be measured on-

- (a) the Net Worth;
- (b) levels of capital as shown on balance sheets; or
- (c) the potential financial support that may be made

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available when the microfinance service provider requires capital injection.

(3) The Bank shall establish that ownership of a microfinance service provider is not from borrowed money.

Place of business

9.-(1) Each microfinance service provider under Tier 2 shall:-

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

(2) A microfinance service provider who intends to open, relocate or close a place of business shall seek and obtain prior approval of the Bank.

(3) A microfinance service provider which fails to comply with the requirements of this regulation commits an offence.

Character and experience

10.-(1) The Bank shall make an assessment as to whether the proposed members of the Board of Directors and Chief Executive Officer or proprietor of proposed microfinance service providers are fit and proper in accordance with the criteria set out in the Third Schedule.

(2) Without prejudice to sub-regulation (1), the Bank shall evaluate the proposed members of the Board of Directors and Chief Executive Officer or proprietor with respect to their experience and ability to manage microfinance business.

(3) The Bank may interview the proposed board member, Chief Executive Officer or proprietor and enquire as to past performance, reputation and skills.

(4) For the purpose of the assessment referred to in this regulation, the proposed board member, Chief Executive Officer and proprietor shall complete the questionnaire set out in the Fourth Schedule to these Regulations.

Determination of application

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

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

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

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licensing requirements.

(3) Where an applicant fails to meet licensing requirements, the Bank shall reject the application.

(4) Prior to issuing a licence, the Bank may perform an inspection of the microfinance service provider's business premises, communication facilities, accounting and internal control systems.

Transition period

12-(1) Pursuant to section 57 of the Act, a person who was operating a microfinance business before the commencement of the Act and who 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.

License

13.-(1) Where prescribed terms and conditions for licensing are met, the Bank shall provide a microfinance service provider with a licence as provided in the Fifth Schedule to these Regulations.

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

(3) A licence issued under these regulations shall expire if business is not commenced within six months from the date the licence was issued, unless the Bank extends such period in writing.

Refusal to issue license

14.-(1) The Bank may refuse to issue a licence where-

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

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

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

Transformation to Tier 1

15. A microfinance service provider may, upon application and attaining the required criteria prescribed in the

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GN. No. 298 of 2014 Banking and Financial (Microfinance Activities) Regulations, transform from Tier 2 to Tier 1.

Transformation from another tier to Tier 2

16. (1) A microfinance service provider that intends to transform into tier 2 shall -

- (a) meet the requirements stipulated under regulation 6;
- (b) provide resolution of the Board or members approving the transformation; and
- (c) meet the minimum capital requirement prescribed in these Regulations.

(2) The Bank may also direct a Tier 2 microfinance service provider to transform to Tier 1, when it is satisfied that the microfinance service provider is sustainable and meets transformation criteria.

PART III

MANAGEMENT OF MICROFINANCE SERVICE PROVIDERS UNDER TIER2

Functions of board of directors or governing body

17.- (1) A microfinance service provider under Tier 2, except for individual money lenders, shall have a board of directors or governing body.

(2) The board of directors or governing body referred to under subregulation (1) shall, in addition to other duties, be responsible for the following-

- (a) appointment of chief executive officer;
- (b) approval of business plans and strategies;
- (c) approval of policies for lending, liquidity, information preservation, human resources, and other policies as determined by the Board;
- (d) monitoring management's conduct and performance;
- (e) setting and enforcing clear lines of responsibility and accountability; and
- (f) ensuring that the microfinance service provider complies with all applicable laws and regulations.

Appointment of Tanzanians

18. A microfinance service provider under Tier 2 shall appoint at least two Tanzanians to its Board of Directors.

Management of microfinance service provider

19. A microfinance service provider under Tier 2, shall have a management which shall, in addition to other

duties, be responsible for the following-

- (a) implementing strategies in a manner that limits risks associated with each strategy;
- (b) ensuring that there are effective internal controls and high ethical standards;
- (c) ensuring that accountability and lines of authority are clearly delineated;
- (d) ensuring the operating and reporting systems are efficient, reliable and facilitate communication;
- (e) keeping proper financial records and timely preparing financial statements;
- (f) preparing and submitting regulatory reports timely;
- (g) implementing recommendations set forth in the external audit and internal audit reports and directives issued by the Bank; and
- (h) ensuring compliance with the Act, Regulations, policies and procedures.

Employment of non-Tanzanian

20.-(1) A microfinance service provider, shall not employ a non-Tanzanian or renew any contract of such a person unless it seeks and obtains prior approval of the Bank.

(2) Subject to subregulation (1), the number of non-Tanzanians employed in the institution shall not exceed five at any time.

(3) Notwithstanding subregulation (2), the Bank may, upon application by a microfinance service provider, authorize any additional person, taking into consideration the following-

- (a) availability of qualified Tanzanians for the proposed position;
- (b) complexity of the functions and roles to be undertaken;
- (c) approval granted by Tanzania Investment Centre;
- (d) emergency situation which may warrant extra person; and
- (e) the time the extra person is expected to stay in the institution and impart knowledge to Tanzanians.

Permissible activities

21. A microfinance service provider may carry out any of the following activities-

- (a) issuing microfinance loans to individuals, groups

of individuals, micro and small enterprises, including microfinance guarantees;

- (b) issuing housing microfinance products to individuals;
- (c) provision of loan disbursement services for the delivery of credit programme of Government, agencies, groups and individuals;
- (d) maintenance and operation of various types of accounts with banks and financial institutions in Tanzania;
- (e) operation of micro leasing facilities, micro finance related hire-purchase and arrangement of consortium lending and supervision of credit schemes;
- (f) provision of professional advice to customers regarding investments in small businesses; rendering managerial, marketing, technical and administrative advice to customers;
- (g) micro insurance as an agent of insurers;
- (h) equity investment;
- (i) agent banking; and
- (j) such other activities as may be authorized by the Bank.

Prohibited activities

22. Unless otherwise authorized by the Bank, a licensed microfinance service provider shall not engage in any of the following activities-

- (a) accepting any type of deposits from the public;
- (b) foreign exchange business;
- (c) foreign trade operations;
- (d) trust operations;
- (e) credit and debit cards;
- (f) payment orders and transfer of funds;
- (g) any business other than providing financial products and services to its members; and
- (h) such other activities as prescribed by the Bank.

Cash collateral,
guarantee or
compulsory savings

23.-(1) A microfinance service provider who accepts cash collateral, cash guarantee, loan insurance guarantee or compulsory savings, shall open a separate bank account for the purpose of saving all cash received as collateral, guarantee or compulsory savings.

(2) Subject to subregulation (1), all cash received shall not be used by microfinance service provider for lending

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or any other purpose and shall be refunded to the borrower upon fulfilment of his loan obligation.

(3) Without prejudice to the foregoing provisions, an individual money lender shall not accept cash collateral, cash guarantee, loan insurance guarantee or compulsory savings.

Books of accounts,
records and
financial year

24. - (1) A microfinance service provider 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 microfinance service provider to be determined with reasonable accuracy at any time;
- (c) allow for the timely preparation of financial statements; and
- (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 microfinance service provider.

(3) A financial year of a microfinance service provider shall commence on 1st January and end on 31st December of each year.

Preparation and
submission of
accounts

25. Every microfinance service provider shall, in each financial year, prepare accounts and within four months from the end of financial year submit to the Bank, copies of annual audited accounts and audit report.

Disclosure of
accounts

26.-(1) Subject to section 42 of the Act, every microfinance service provider 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 conspicuous position in a public part of its principal place of business and in its branches and outlets; and
- (c) be displayed throughout the year.

Internal auditor

27. - (1) A microfinance service provider 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.

(3) The internal auditor shall report to the board of directors or the proprietor.

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

(5) The duties of the internal auditor shall include -

- (a) verification of cash 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 microfinance service provider assets and investments;
- (f) checking the adequacy of provision 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 of directors 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 are accurate and timely

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- 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;
 - (p) preparing annual audit plan; and
 - (q) assessing the efficiency of the usage of resources.
- Outsourcing
internal auditor
28. A microfinance service provider may outsource internal audit function from a registered audit firm provided that, the audit firm performs internal audit functions in accordance with these Regulations.
- External auditor
- 29.-(1) The accounts of a microfinance service provider shall be audited at least once in a year by a competent and registered auditor appointed by a microfinance service provider.
- (2) A microfinance service provider shall not remain without an external auditor for more than ninety days from the date the position falls vacant.
- (3) Without prejudice to subregulation (1), an external auditor shall not perform the external audit of a microfinance service provider if such auditor-
- (a) is related to officers or employees of the microfinance service provider; or
 - (b) is a shareholder, member, partner or director of the microfinance service provider.
- Access to
employees by
external auditor
30. External auditors may have access to any present or former microfinance service provider's officer or employee to obtain information necessary for the purpose of the particular auditing.
- Reporting of
irregularities
31. The external auditor shall immediately report to the Bank if, during the course of the audit, he becomes aware of:-
- (a) any serious breach of or non-compliance of the provisions of the Act, Anti Money Laundering Act, or these Regulations;
 - (b) any criminal offence involving fraud or other dishonesty committed by microfinance service provider or its management or employees; and

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(c) any losses incurred which has caused the microfinance service providers to be undercapitalized.

Presentation of
audit report

32.-(1) Upon completion of the audit, the external auditor shall meet with the board of directors or proprietor of microfinance service provider to present the audit report and discuss financial conditions of the microfinance service provider and actions that need to be taken to improve operations of the microfinance service provider.

(2) The internal auditor shall follow up on all audit findings and recommendations to ensure that corrections are made within sufficient period from receipt of the report.

Change of external
auditor

33. A microfinance service provider shall not, in the course of performance of the audit work, change its external auditor except with the prior written approval of the Bank.

Rotation of external
auditor

34.-(1) An external auditor shall not audit the same microfinance service provider for more than three consecutive years.

(2) Subject to subregulation (1), an external auditor may resume the role as external auditor with the same microfinance service provider after a lapse of two years from the last audit engagement.

Submission of
credit information

35.-(1) A microfinance service provider shall, having ascertained the proper identities of borrowers, report to the Credit Reference Bureaux detailed information about all credit facilities extended to each borrower, in the format as the Bank may prescribe.

(2) A microfinance service provider shall submit credit information to the Credit Reference Bureaux on monthly basis for all existing and new credit facilities granted to customers.

(3) A microfinance service provider shall access and use credit information through the Credit Reference Bureaux in a manner as prescribed in the Bank of Tanzania (Credit Reference Bureau) Regulations.

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

(5) Without prejudice to the requirements of this regulation, a microfinance service provider shall comply with the requirements of Bank of Tanzania (Credit Reference

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416 of 2012

Bureau) Regulations.

(6) For the purpose of this regulation, “credit information” includes any 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

36. A microfinance service provider shall ensure that all borrowers execute a written consent to allow such a microfinance service provider to obtain from, exchange with or disclose all credit information relating to the borrowers to lenders or Credit Reference Bureaux.

PART IV LENDING OPERATIONS

Lending policy

37.-(1) Every microfinance service provider shall formulate 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) eligibility requirements for a loan;
- (c) types of loans and acceptable collateral;
- (d) loan limits including maximum loan limit per borrower and per product ;
- (e) loan terms and conditions such as interest rates, fees and charges and frequency of payments;
- (f) loan approval process;
- (g) loan limits as compared to collateral value;
- (h) determination of the borrower’s ability to repay the loan;
- (i) terms and conditions for loans to officers and employees of microfinance service provider;

- (j) loan guarantee requirements;
- (k) monitoring and evaluation of credit quality;
- (l) the grace period, if applicable;
- (m) loan recovery and follow-up procedures;
- (n) the criteria and procedure for restructuring of loans;
- (o) loan processing time upon submission of a complete loan application;
- (p) the criteria and procedure for approval and authorization required for writing off bad loans; and
- (q) relevant forms used for loan application.

(3) The policy referred to under sub-regulation (1), shall be reviewed at least once in every three years.

Loan application

38.-(1) Every application for a loan shall be made on a standard form prescribed by a particular microfinance service provider and shall state at a minimum the following-

- (a) 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 loans outstanding; and
- (o) such other information as may be required.

(2) Without prejudice to subregulation (1), 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 agreement

39.-(1) A microfinance service provider shall consider a loan application in accordance with its lending policy and shall, if satisfied that a borrower meets 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 fee, 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; and
 - (l) any other relevant disclosure as may be directed by the Bank.

Communicating reasons for loan refusal

40. Where a loan application is denied, a microfinance service provider shall within seven days communicate to the applicant the reasons for denial.

Loan collateral

41.-(1) A microfinance service provider may obtain collateral for securing a loan.

(2) A microfinance service provider shall maintain an up to date register of all collaterals held for securing loans.

(3) A microfinance service provider shall not dispose of any mortgaged property, unless sixty days have passed since a written demand notice was issued to the borrower requiring him or her to pay any outstanding loan.

(4) For a collateral other than mortgaged property, a microfinance service provider shall not dispose such collateral, unless a sufficient notice is given as provided for in the loan agreement to the borrower requiring him or her to pay any outstanding loan.

(5) A microfinance service provider may dispose of the collateral given by the borrower by way of public auction or private treaty.

(6) Before sale of a collateral, a microfinance service provider shall appoint a registered independent valuer to

undertake valuation of the property to determine a forced sale value and market value of the collateral.

(7) Subject to subregulation (6), a microfinance service provider shall not sell the collateral at less than the forced sale value in the initial two auctions unless such collateral does not sell in the first two auctions at a value higher than the forced value.

(8) The proceeds from the sale of collateral shall be applied as follows-

- (a) to the payment of all monies outstanding on the loan;
- (b) to the recovery of costs and expenses properly incurred and incidental to the sale;
- (c) the balance, if any, shall be paid to the borrower.

Loan repayment

42.-(1) For all payments received from a borrower, a microfinance service provider shall credit a borrower's account with the amount received on the date payment was made.

(2) The repayment amount referred to in subregulation (1) shall first be allocated to any due interest charges on the loan, then to the outstanding fees and charges on the loan and lastly to settle any due principal payment.

(3) A borrower has the right, without advance notice and without being penalized by a microfinance service provider, to repay a loan prior to its maturity either in whole or in part to reduce outstanding principal amount owed, interest charges and fees owed.

(4) Subject to subregulation (3), 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.

Loan restructuring

43. Subject to its lending policy, a microfinance service provider may restructure a loan in terms of instalment amount or payment period for a borrower facing cash flow problems or financial distress.

Past due loans

44.-(1) A loan with specific repayment date shall be considered as past due in its entirety if any of its contractual obligation for payment has become due and unpaid.

(2) Loans which are payable in installments shall be considered past due in their entirety if any of the installments has become due and unpaid for one day or more.

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(3) A group loan shall be considered as past due in its entirety where any of the members of the group defaults and the amount due is not covered by the other members of the group.

Classification and provision for loans

45.-(1) A microfinance service provider shall classify loans based on days past due as follows-

Number of days past due	Classification
0 to 5 days	Current
6 to 30 days	Especially Mentioned
31 to 60 days	Substandard
61 to 90 days	Doubtful
More than 90 days	Loss

(2) The minimum provision rates for loans shall be based on the following schedule-

Classification	Provision
Current	One percent
Especially Mentioned	Five percent
Substandard	Twenty five percent
Doubtful	Fifty percent
Loss	One hundred percent

(3) A microfinance service provider shall classify housing microfinance loans based on days past due as follows-

Number of days past due	Classification
91 to 180 days	Substandard
180 to 360 days	Doubtful
361 and more	Loss

(4) The minimum provision rates for housing microfinance loans shall be based on the following schedule-

Classification	Provision
Substandard	Twenty five percent
Doubtful	Fifty percent
Loss	One hundred percent

(5) The entire loan balance shall be considered in arrears where the missed payment is for interest only.

PART V
SUPERVISION OF MICROFINANCE SERVICE PROVIDERS

Minimum capital

46.-(1) A microfinance service provider under Tier 2 shall commence operations with and maintain at all times a minimum capital of twenty million shillings or such higher amount as the Bank may prescribe.

(2) Without prejudice to subregulation (1), the Bank may require higher minimum capital for a microfinance service provider where in the opinion of the Bank, the microfinance service provider-

- (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.

(5) Where a microfinance service provider fails to meet minimum capital requirements as provided under subregulation (1), such microfinance service provider shall, within thirty days of the shortfall, submit to the Bank a capital restoration plan.

(6)The capital restoration plan provided under subregulation (5) shall at a minimum state the following-

- (a) a time bound schedule of actions to be taken by management to increase the capital back to the minimum requirement;
- (b) the level of capital to be achieved at the end of each quarter; and
- (c) any other information as the Bank may require.

(7)Where any microfinance service provider fails to meet minimum capital requirement and has failed to submit or

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implement capital restoration plans, the Bank may take such administrative measures as may be appropriate.

Minimum liquid assets

47. - (1) A microfinance service provider shall maintain minimum liquid assets amounting to not less than five percent of its total assets.

(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 may specify.

Inspection

48.-(1) The Bank shall, in exercising its powers of inspection under the Act, perform onsite and offsite inspection of a microfinance service provider.

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

- (a) ascertaining microfinance service provider’s compliance with laws, regulations, policies and procedures in carrying out its operations;
- (b) examining operations and financial position of a microfinance service provider;
- (c) assessing the effectiveness of the internal controls;
- (d) analysis of periodic reports submitted by microfinance service provider to the Bank; and
- (e) other matters as may be determined by the Bank.

(3) Upon conclusion of onsite inspection under subregulation (1), the Bank may prepare and forward a copy of inspection report to the Chairman of the Board of Directors, proprietor or manager of the microfinance service provider.

(4) The Board of Directors of the microfinance service provider shall ensure that appropriate actions are taken to address issues raised in the report.

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

Payment dividends

of

49.-(1) Subject to section 37 of the Act, the microfinance service provider under Tier 2 shall pay dividends, interest and other form of distribution in the manner prescribed in the MEMARTS, constitution or other relevant

documents of the microfinance service provider.

(2) Notwithstanding subregulation (1), the microfinance service provider under Tier 2 shall not pay dividends, interest and other form of distribution if such payments or distribution result into failure of such microfinance service provider to meet the minimum capital requirements provided under these Regulations.

Submission of
periodic reports

50. A microfinance service provider shall submit to the Bank periodic reports in the format and frequency to be prescribed by Bank.

Management take
over

51.-(1) The Bank may take-over management of a microfinance service provider who in its model of operations requires clients to provide loan insurance guarantee in form of cash or cash collateral where-

- (a) the Bank considers that a microfinance service provider is not-
 - (i) in a sound financial condition;
 - (ii) operating in accordance with sound administrative and accounting practices and procedures;
 - (iii) adhering to proper risk-management policies; and
 - (iv) complying with instructions issued by the Bank;
- (b) a microfinance service provider fails to comply with the minimum capital requirements prescribed in these regulations;
- (c) a microfinance service provider's license has been revoked;
- (d) the continuation of microfinance business is detrimental to the interests of clients; or
- (e) a microfinance service provider is undertaking microfinance business in a manner contrary to the Act.

(2) Upon take-over referred to under subregulation (1), the Bank may utilize the services of private persons to manage the microfinance service provider, where the Bank determines that doing so is the most practicable, efficient and cost effective manner.

(3) Costs of management of a microfinance service provider during the period of takeover shall be borne by the microfinance service provider.

(4) During take-over, no attachment or lien except a lien created by the Bank shall be attached to any property or asset of the microfinance service provider.

(5) Pursuant to section 35 (2) of the Act, a party to a contract with a microfinance service provider shall not be relieved of his obligations on the ground that the microfinance service provider is under the management of the Bank.

End of
management by
Bank

52.-(1) Management by the Bank shall end upon improvement of the microfinance service provider's financial condition and operations or within six months, whichever comes earlier.

(2) The Bank may extend the six months period referred to under sub regulation (1) where microfinance service provider's financial condition and operations have not improved.

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

PART VI CONSUMER PROTECTION

Loan disclosure

53. A microfinance service provider 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.

Complaints
handling and
dispute resolution
mechanism

54.-(1) Every microfinance service provider shall have a customer complaints handling and dispute resolution mechanism which shall at minimum include-

- (a) the manner in which a complaint will be submitted;
- (b) establishment of complaint handling desk or designate an officer;
- (c) time frame for settling disputes and providing feedback.

(2) Every microfinance service provider 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

55. A microfinance service provider 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 microfinance service provider;
- (b) the loan number;
- (c) name of borrower;
- (d) loan amount;
- (e) the date a loan was granted; and
- (f) the guarantor's signature.

Debt collection or
recovery

56 .-(1) Subject to section 51 of the Act, a microfinance service provider shall collect or recover a loan from borrower 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 microfinance service provider 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;
- (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 taken or that is not intended to be taken; and

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(iv) communicating or threatening to communicate to any person credit information that is known to be false.

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

(4) A microfinance service provider may engage a debt collector to collect or recover a loan from a borrower provided that such debt collector-

- (a) has been licensed under relevant law;
- (b) carries out debt collection or recovery in compliance with the requirements of subregulations (2) and (3); and
- (c) adheres to relevant laws regarding debt recovery.

Financial
education

57.-(1) A microfinance service provider shall provide financial education to its customers which at minimum shall cover the following-

- (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 sub regulation (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, newspapers and social networks;
- (g) specific websites;
- (h) counselling sessions; and
- (i) any other manner as may be considered appropriate.

Compliance with
laws on financial
consumer

58. Notwithstanding any provision in these Regulations, a Tier 2 Microfinance Service Provider shall

protection comply with the laws governing financial consumer protection.

PART VII
GENERAL PROVISIONS

Upgrading from sole proprietor to company 59. A sole proprietor whose loan portfolio exceeds two hundred million shillings or whose number of borrowers exceeds one hundred, shall be required to form a company and operate as an entity.

Administrative measures 60.-(1) Without prejudice to penalties and actions prescribed under the Act, the Bank may impose on any microfinance service provider any of the following administrative measures for non-compliance-

- (a) prohibition from declaring or paying dividends;
- (b) prohibition from opening or establishing new branches;
- (c) suspension of lending and investment activities;
- (d) revocation of license;
- (e) a formal warning to a defaulting director, employee or proprietor;
- (f) suspension from office of the defaulting director, employee or proprietor;
- (g) disqualification from holding any position or office in any institution under the supervision of the Bank; and
- (h) a penalty of the amount to be determined by the Bank of not less than five hundred thousand shillings and not more than five million shillings;
- (i) any other administrative measures as the Bank may prescribe.

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

Appeals 61. - (1) Any person who is aggrieved by the decision of the Bank may, within twenty one days from the date of decision, appeal to the Minister.

G.N. No. 575 of 2019 (2) Subject to subregulation (1), an appeal shall be governed by the provisions of the Microfinance (Roles of the Minister) Regulations, 2019 and state the following-

(a) nature of an appeal;

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- (b) grounds of an appeal; and
- (c) any other relevant information as may be required by the Minister.

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

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SCHEDULE

FIRST SCHEDULE

(Made under regulation 6(2))

The Governor,
Bank of Tanzania,
P.O. Box 2939,
Dar es Salaam,
TANZANIA.

Re: Application for a Licence to carry out microfinance business under Tier 2

Sir,

I/We, the undersigned, hereby apply for a licence to establish/carry out a microfinance business in Tanzania to be known as _____ with principal place of business at _____

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

I / 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.

Enclosed is a proof of payment of Tanzanian Shillings five hundred thousand/three hundred thousand as an application fees.

Yours faithfully,

.....

Signature of the Applicant or Authorized Officer

SECOND SCHEDULE

(Made under regulation 6 (3) (c))

Checklist of Documents

A. To all applicants

1. Letter of application in the prescribed form.
2. Banker's cheque or any other document acceptable to the Bank evidencing payment of application fee.
3. Proof of source and availability of capital of the proposed microfinance service provider.
4. Certified copies of academic and professional certificates of members of the Board and the Chief Executive Officer.
5. Copy of latest Audited balance sheet, income statement and cash flow of an existing microfinance service provider.
6. Certified Copy of TIN certificate.
7. Certified copy of Tax clearance Certificate.
8. Lending policy.
9. Home Country Regulator approval if the applicant is a foreign institution.
10. Declaration that the funds to be invested have not been obtained criminally or associated with any criminal activity.
11. Proof of citizenship of every subscriber and every proposed director, Chief Executive Officer and individual money lender. This includes detailed curriculum vitae, certified copy of passport, which contain personal information or National ID or birth certificate and two recent passport size photographs.

B. To an entity

In addition to documents listed in item A above, an entity shall submit the following-

1. Certified copy of certificate of incorporation/registration.
2. Certified copy Memorandum and Articles of Association, constitution or by laws.
3. Board Resolution authorizing application for Licence.
4. Where applicable, a list of subscribers or members of the Board and Chief Executive Officer.
5. Where applicable, credit reference reports for every significant subscriber or member of the Board and Chief Executive Officer.
6. Where applicable, certified copies of tax clearance certificates for the applicant, significant subscriber or member of the Board and Chief Executive Officer.

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7. Certified copies of latest annual returns of an existing microfinance service provider.

C. To individual money lenders

In addition to documents listed in item A above, individual money lender shall submit the following-

1. Certified copy of certificate of a business name registration.
2. Credit report from Credit Reference Bureaux.

THIRD SCHEDULE

(Made under regulation 10(1))

CRITERIA FOR DETERMINING THE CHARACTER AND EXPERIENCE
REQUIRED FOR A MEMBER OF THE BOARD OF DIRECTORS AND SENIOR
MANAGEMENT OF A MICROFINANCE SERVICE PROVIDER

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 Chief Executive Officer, the Bank shall have regard to the following qualities, in so far as they are reasonably determinable, of the person concerned-

- (a) education background;
- (b) general character;
- (c) professional skills and competence.

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 an institution 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; or
- (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 by, persons engaged in the provision of banking, insurance, investment or other financial services.

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

FOURTH SCHEDULE

(Made under regulation 10(4))

QUESTIONNAIRE FOR DIRECTORS AND CHIEF EXECUTIVE OFFICER OF
MICROFINANCE SERVICE PROVIDERS UNDER TIER 2

Part I: Instructions for Filling the Questionnaire

- (i) This Questionnaire should be filled in duplicate by each director and Chief Executive Officer of a Microfinance Service Provider.
- (ii) Answers to ALL questions should be TYPED or written in INK and in BLOCK LETTERS.
- (iii) No question should be left unanswered. Where the Applicant believes that a question does not apply, the Applicant should write "Not Applicable" or "N/A".
- (iv) If there is insufficient space to answer a question, additional information may be provided on an attachment page and identify the continuation of an answer by stating the question number.
- (v) All dates should be completed in the following format: Day / Month / Year
- (vi) Please ensure that all answers and information are true and correct. Failure to do so constitutes a criminal offence and can lead the Bank to reject an application or disqualify a director or Chief Executive Officer who has been cleared on the basis of untrue or incorrect information.
- (vii) The following documents shall be submitted to the Bank with respect to each proposed director and Chief Executive Officer, together with other documents the Bank may require-
 - a) certified copies of academic and professional certificates;
 - b) photocopy of the Tanzania national identity card or pages of the passport which contain personal information including photograph, nationality, date and place of birth and issuer of the passport;
 - c) two certified passport size photographs; and
 - d) references from two persons who are not relatives, vouching for good moral character, integrity and performance.

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Part II: Personal Particulars

1. Name of the microfinance service provider			
2. Surname			
3. First Name(s)			
4. Middle Name			
5. Are there any names by which you are also known as?			
6. Date of Birth			
7. Place of Birth			
8. Position to be held in the microfinance service provider			
9. National Identity Number and/or Voters ID and/or Driving Licence number. Please tick and provide identification number below. Attach a certified copy of the Driving Licence and or Voter ID card appropriately.	National Identity Number <input type="checkbox"/>	Voter ID Number <input type="checkbox"/>	Driving Licence Number <input type="checkbox"/>
	10. Nationality (ies): Please state how nationality (ies) was acquired, e.g. by birth, naturalisation or marriage. If acquired by naturalisation or marriage, indicate previous nationality.	Birth <input type="checkbox"/>	Naturalization <input type="checkbox"/>
11. Please attach a certified copy of the Tanzania national identity card. Or pages of your passport(s) which contain personal information including photograph, nationality, date and place of birth and issuer of the passport.			
12. List below your official and residential addresses. If you have had any other addresses during the last 5 years, indicate them as well as relevant dates.			
Dates	Residential Address	Official Address	
	Block/Plot number..... Street..... Postal Address..... District/Town..... City..... Country.....	Name of the Organization..... Block/Plot number..... Street..... Postal Address..... District/Town..... City..... Country.....	
	Block/Plot number..... Street..... Postal Address..... District/Town..... City..... Country.....	Name of the Organization..... Block/Plot number..... Street..... Postal Address..... District/Town..... City..... Country.....	
	Block/Plot number..... Street.....	Name of the Organization..... Block/Plot number.....	

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	Postal Address..... District/Town..... City..... Country.....	Street..... Postal Address..... District/Town..... City..... Country.....
--	--	---

Part III: Academic Qualifications

13. Details of academic qualifications and the year in which they were obtained. (E.g. Certificate, Diploma, Degree, Master's Degree, etc....). Please provide certified true copies of certificates in relation to the qualifications obtained.

Qualification	Educational Establishment / Awarding Body	Year Obtained

Part IV: Professional Qualifications

14. Details of any professional qualifications and the year in which they were obtained (E.g. CPA, TIOB, ACA, ACCA, ACIB etc....). Please provide certified true copies of certificates in relation to the qualifications obtained.

Membership No.	Professional Qualification	Year Obtained

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Part V: Professional Membership

15. Details of current membership of any relevant professional bodies, their contact details and year of admission (e.g. Institute of Directors, Institute of Management, etc...)				
Membership No	Professional Body's Name and Contact Details	Levels of Memberships (e.g. Associate, Fellow, Member)	Year Admitted	Status of membership (e.g. active or inactive)

Part VI: Employment History

16. Beginning with your present occupation or employment, please list all occupations and employment. If self-employed please indicate "SELF EMPLOYED" (NB: The Bank may seek references from previous employers.)				
Name / Address of employer	Nature of Business	Position Held	Relevant Dates	Percentage of ownership (For self-employed only)
Name of the Organization..... Block/Plot number..... Street..... Postal Address..... District/Town..... City..... Country.....				
Name of the Organization..... Block/Plot number..... Street..... Postal Address..... District/Town..... City..... Country.....				
Name of the Organization..... Block/Plot number..... Street..... Postal Address..... District/Town..... City..... Country.....				

Part VII: Directorships

17. Beginning with your present directorship, please list all directorships				
Company Name	Company's nature of business	Incorporation Number	Country of Registration	Relevant Date

18. Have you ever been involved in any litigati
Yes No
If yes, provide details including any judgment.

If any of the answers to questions 21 to 32 are "Yes", please give full particulars on a separate sheet of

Microfinance (Non-Deposit Taking Microfinance Service Providers)

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paper clearly stating the number of the question to which the details relate. Please note that no time restrictions apply to the matters you are asked to disclose. Any convictions and other facts must be stated.

19. Have you or any other body corporate, partnership or unincorporated institution to which you are, or have been associated with as a director, Chief Executive Officer, or officer ever applied for microfinance business to any jurisdiction for a license or other authority to carry on microfinance business or other related business (e.g. insurance, mortgage finance, lease finance, etc.), regardless of whether the application was successful or not.	Yes <input type="checkbox"/> No <input type="checkbox"/>
20. Have you at any time been convicted of any criminal offence? If so, give full details of court by which you were convicted, the offence and the penalty imposed and the date of conviction.	Yes <input type="checkbox"/> No <input type="checkbox"/>
21. Have you or any body corporate, partnership or unincorporated institution to which you are, or have been associated with as a director, Chief Executive Officer, or officer been subject of an investigation by a government, professional or other regulatory body?	Yes <input type="checkbox"/> No <input type="checkbox"/>
22. Have you ever been subject of a disciplinary enquiry?	Yes <input type="checkbox"/> No <input type="checkbox"/>
23. Have you ever been suspended from any office or asked to resign?	Yes <input type="checkbox"/> No <input type="checkbox"/>
24. Have you been dismissed from any office of employment or barred from entry to any profession or occupation?	Yes <input type="checkbox"/> No <input type="checkbox"/>
25. Have you ever been disqualified from acting as a director of a company, or from acting in the management or conduct of the affairs of the company, partnership or unincorporated company?	Yes <input type="checkbox"/> No <input type="checkbox"/>
26. Have you ever been adjudged bankrupt by a court, or entered into any compromise with creditors, or are you currently the subject of bankruptcy proceedings? Are you aware of any such proceedings pending?	Yes <input type="checkbox"/> No <input type="checkbox"/>
27. Have you ever failed to honor any credit obligation as borrower of any bank or financial institution or other money lending institution?	Yes <input type="checkbox"/> No <input type="checkbox"/>
28. Have you failed to satisfy any debt adjudged due and payable by you as a judgment-debtor under an order of a court?	Yes <input type="checkbox"/> No <input type="checkbox"/>
29. Have you in connection with the formation or management	Yes <input type="checkbox"/> No <input type="checkbox"/>

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of any body corporate, partnership or unincorporated institution been adjudged by a court civilly liable for any fraud or other misconduct by you towards such a body or company or towards any members thereof?	
30. Has any body corporate, partnership or unincorporated institution with which you were associated as a director, Chief Executive Officer or officer been compulsory wound up or made any compromise or arrangement with creditors or ceased trading in circumstances where its creditors did not receive or have not yet received full settlement of their claims.	Yes <input type="checkbox"/> No <input type="checkbox"/>
31. In carrying out your duties, will you be acting on the directions or instruction of any other person?	Yes <input type="checkbox"/> No <input type="checkbox"/>

Part VIII: Referees

32. State the name, address and occupation of two persons who are not relatives, vouching for your good moral character, integrity and performance of whom the Bank may enquire regarding their character and reputation.

DECLARATION BY THE APPLICANT

I, hereby declare the following:
 This questionnaire consists of..... pages, each signed by me.
 The content of this declaration is true to the best of my knowledge and belief. I am aware that should any information submitted herein be false, I may be liable to prosecution. I undertake, that for as long as I continue to be a director or executive officer of the institution, I will notify the Bank of any material changes to, or affecting the completeness or accuracy of the information supplied by me as soon as possible, but in any event not later than 21 days from the day that the changes come to my attention. I know and understand the content of this declaration. I have/do not have* objections to taking the prescribed oath. I consider the prescribed oath to be binding /not binding* on my conscience.

SIGNATURE OF APPLICANT

I certify that the above statement was taken by me and that the deponent has acknowledged that he*/she knows and understands the content of this statement. This statement was sworn to*/affirmed before me and the deponent's signature was placed thereon in my presence at on thisday of two thousand and

COMMISSIONER OF OATHS

FULL NAMES: _____

ADDRESS: _____

* Delete whichever is not applicable

Checklist

Below is a checklist that has been designed to assist applicants to ensure that all of the information required by the Bank has been submitted.

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Has the Personal Questionnaire form been filled out in full?	<input type="checkbox"/>
Certified copy of pages of passport or national identity card, which contain personal information including photograph, nationality, date and place of birth and issuer of the passport or Tanzania national identity card.	<input type="checkbox"/>
Certified copy of the social security identity card and /or Voter ID card	<input type="checkbox"/>
Copies of stated academic qualifications	<input type="checkbox"/>
Copies of stated professional qualifications	<input type="checkbox"/>
Copies of stated membership to professional bodies	<input type="checkbox"/>
Past Employment references	<input type="checkbox"/>
List of Directorships (if applicable)	<input type="checkbox"/>

FIFTH SCHEDULE

(Made under Regulation 13(1))



LICENCE NO: MSP2-

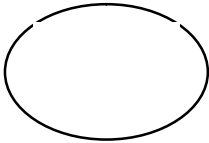
BANK OF TANZANIA

LICENCE TO CONDUCT MICROFINANCE BUSINESS
Issued under Section 21 of the Microfinance Act, of 2018

THIS LICENCE IS ISSUED TO.....(Name of Microfinance Service Provider) of.....(Address) and authorizes the said institution to conduct or carry microfinance business in Mainland Tanzania as a Non-deposit Taking Microfinance Service Provider under Tier 2.

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

Dated this.....day of



GOVERNOR

Dar es Salaam,
....., 2019

FLORENS LUOGA
Governor