

GUIDELINE ON THE OPENING, RELOCATION AND CLOSURE OF MARKETING OFFICES AND AGENCIES OF DEPOSIT TAKING MICROFINANCE INSTITUTIONS (DTMs) CBK/DTM/MFG/2

PART I PRELIMINARY

1.1 Title - Guideline on the Opening, Relocation and Closure of Marketing Offices and Agencies of Deposit Taking Microfinance Institutions (DTMs).

1.2 Authorisation - This Guideline is issued under Sections 2 and 48(2A) of the Microfinance Act, which empower the Central Bank of Kenya to issue guidelines to be adhered to by institutions in order to maintain a stable and efficient deposit taking microfinance system.

1.3 Application - This Guideline applies to deposit taking microfinance institutions licensed pursuant to the Microfinance Act.

1.4 Definitions

“Agency” means an institution’s place of business operated within a third party premises or structure by means of an agreement between the institution and the third party in the provision of deposit-taking microfinance.

“Deposit Taking Microfinance institution” and “DTM” can be used interchangeably and has the meaning assigned to it under the Microfinance Act.

“Marketing office” means an institution’s place of business responsible to a branch, which the institution uses both for marketing and for carrying out or transacting deposit-taking business.

“Real time” means the electronic processing of transactional data instantaneously upon data entry or receipt of a command.

“Third party” means an entity other than the institution or the Central Bank.

Other terms used in this Guideline are as defined in the Microfinance Act.

1.5 Purpose

1.5.1 The purpose of this Guideline is:

- i) To enable DTMs to carry out deposit taking microfinance business in a marketing office or agency;
- ii) To prescribe the manner in which an institution may open a marketing office or agency for purposes of carrying out deposit taking business and to prescribe the manner in which these places of business can be relocated or closed;

- iii) To provide a set of minimum standards of data and network security, customer protection and risk management to be adhered to by DTMs while carrying out deposit taking business in a marketing office or agency .

1.5.2 This Guideline shall not impair or exclude the application of any existing or future policies or procedures of an institution which may apply to places of business generally.

1.6 Statement of policy

This Guideline is intended to:

- i) Increase financial services outreach in a cost effective manner and to promote financial inclusion to the un-banked and under-banked population without risking the safety and soundness of the financial system; and
- ii) Enable DTMs to open marketing offices or agencies for purposes of carrying out deposit taking business.

1.7 Scope

This Guideline provides a clear framework for the conduct of deposit taking microfinance business in marketing offices and agencies.

1.8 Responsibility

1.8.1 The Board of Directors of a DTM shall be responsible for formulating policies, procedures and guidelines which ensure that:

- i) Suitable lease agreements are in place where the place of business belongs to a third party;
- ii) Sufficient facilities are in place to enable efficient provision of DTM services in marketing offices or agencies;
- iii) Risks associated with carrying out deposit taking business in marketing offices or agencies are properly identified, documented and mitigated;
- iv) Business activities carried out in marketing offices or agencies are constantly monitored to ensure compliance with the Microfinance Act, Regulations, this Guideline and any agreement in place.

1.8.2 The Board of Directors shall ensure compliance with this Guideline.

PART II APPROVAL PROCESS

2.1 Application for the opening of a marketing office or agency

- 2.1.1 A DTM may conduct deposit taking microfinance business in a marketing office or agency.
- 2.1.2 Every DTM seeking to conduct deposit taking microfinance business in a marketing office or agency shall apply and obtain a written approval of the Central Bank before commencing business.
- 2.1.3 The application shall be in the manner set out in Form I of the First Schedule of this Guideline and shall be accompanied by the supporting documents outlined in Clause 2.1.4. The application form may be obtained from the Bank Supervision Department, Central Bank of Kenya or may be accessed from the Central Bank of Kenya website at *www.centralbank.go.ke*.
- 2.1.4 The application form shall be accompanied by the following documents or information;
- i) A lease agreement where the premises belong to a third party;
 - ii) Evidence of ownership of the premises where the premises are owned by the institution;
 - iii) A business case for the future operations in the marketing office or agency. At a minimum, the business case should contain the following information:
 - a) The geographical and economic service areas to be served;
 - b) Overview of the market to be served;
 - c) Description of the management structure to be used by the institution including the reporting lines, linkages between the proposed place of business and the branch or head office;
 - d) Financial projections for the proposed place of business;
 - iv) The security provisions and space available for carrying out the deposit taking microfinance business in Kenya;
 - v) The prescribed application fees;
 - vi) Any other document or information as the Central Bank may require.
- 2.1.5 The duly completed application form including the documents and information specified in Clause 2.1.4 shall be submitted to the Director, Bank Supervision Department, Central Bank of Kenya, P. O. Box 60000-00200, Nairobi. The application shall be accompanied with a non-refundable bankers cheque of Kshs. 5,000/= per marketing office or agency payable to the Central Bank of Kenya, being the application fees.

2.2 Approval of the application for the opening of a marketing office or agency

- 2.2.1 Upon receipt of the application, the Central Bank of Kenya will appraise it for completeness.
- 2.2.2 The institution may be requested to submit such additional information as the Central Bank may deem necessary.
- 2.2.3 The Central Bank shall process the application and if satisfied that the applicant fulfils all the requirements, shall grant an approval for the opening of a marketing office or agency.
- 2.2.4 In processing the application, the Central Bank shall consider the following factors:
- i) The target area to be served by the new marketing office or agency;
 - ii) Institution's performance strengths as gleaned from its latest annual report;
 - iii) Capital adequacy and structure;
 - iv) Current and future earning capabilities;
 - v) Managerial capabilities;
 - vi) Liquidity position;
 - vii) Track record on adherence to the provisions of the Act and Regulations including the Central Bank directives;
 - viii) Safety and security arrangements.
- 2.2.5 Where the Central Bank declines to approve the application, the Central Bank may within thirty days from the date of submission of the complete application communicate its refusal to the institution in writing and shall state the reasons for its refusal.
- 2.2.6 An Applicant whose application has been declined in accordance with Clause 2.2.5 may resubmit the application upon fulfilment of the conditions communicated by the Central Bank (if any).
- 2.2.7 An institution granted an approval to open a marketing office or agency shall ensure that the marketing office or agency opens for business no later than ninety (90) days after the date of approval and the institution shall notify the Central Bank of the opening within fourteen days from the date of opening.
- 2.2.8 An institution that contravenes any of the provisions of Clause 2.1 or Clause 2.2 of this Guideline is liable to such administrative sanction as the Central Bank may prescribe.

2.3 Annual renewal of approval for a marketing office or agency

- 2.3.1 An institution may apply to the Central Bank for the renewal of approval of a marketing office or agency.
- 2.3.2 The application shall be in Form 2 of the First Schedule and shall be accompanied with a bankers cheque of Kshs. 5,000/= per marketing office or agency payable to the Central Bank of Kenya, being the annual renewal fees.
- 2.3.3 The annual renewal fees shall be paid within three months before the end of the current financial year.
- 2.3.4 Any institution that fails to pay the annual renewal fees within the prescribed period shall pay double the annual renewal fees if payment is made within ninety days after the end of the financial year.
- 2.3.5 If an institution fails to pay the prescribed fees within ninety days after the end of the financial year, its renewal application shall be declined.

PART III OPERATIONS

3.1 Duties of the Institution

- 3.1.1 No institution shall carry on business in a marketing office or agency except through its staff.
- 3.1.2 An institution shall ensure that;
- i) Appropriate physical infrastructure and human resources are in place to enable the provision of services in a marketing office or agency with the necessary degree of efficiency and security.
 - ii) Money received at a marketing office or agency is secure.
 - iii) Essential documents are kept in a secure place and access thereto is restricted to only authorised persons.
 - iv) Customer information is protected at all times.
 - v) Equipment and other tools used in the provision of services are in a good working condition and their use does not pose any technological or other risks.
 - vi) Monitoring is done on the safety, security and efficiency of the equipment and other tools being used to prevent any tampering or manipulation by any person.
 - vii) The premises are suitable for the kind of business being carried on therein.
 - viii) Data is adequately protected during transmission and storage.
 - ix) Physical documents or materials requiring transportation from one place to another are transported in a safe manner to prevent theft, damage or loss.

- x) The premises, cash, personnel, other uses and users are adequately insured against all foreseeable risks.

3.1.3 Operations or activities in a marketing office or agency should not jeopardise or compromise the integrity or the other operations of the institution including the reporting obligations of the institution to the Central Bank.

3.2 Permissible activities

3.2.1 An institution may specify the kind of business activities that may be carried out in a particular marketing office or agency and may put such limits or restrictions on such activities as the institution may find necessary. Such limits or restrictions may relate to transactional amounts, amount of cash that may be kept in the premises, account opening or any other limitation or restriction as the institution may specify for a particular marketing office or agency.

3.2.2 An institution shall continuously monitor the activities carried out in its marketing office or agency to ensure that no prohibited activity as indicated in the Microfinance Act and Regulations takes place in the marketing office or agency.

3.3 Due Diligence on the Staff

3.3.1 The institution shall ensure that any staff member to be assigned to a marketing office or agency has gone through an internal vetting process and is professionally and morally suitable to carry out the institution's business in a marketing office or agency with utmost integrity, honesty and dedication.

3.3.2 Suitability assessment shall be dependent on the nature of the activities to be undertaken in a marketing office or agency and the particular assignments of the employee concerned.

3.3.3 An institution shall put in place internal controls and monitoring systems to prevent criminal activities from taking place in marketing offices or agencies including criminal acts or omissions committed jointly or through conspiracy between members of staff in the marketing offices or agencies and third parties.

PART IV MANAGEMENT OF MARKETING OFFICES AND AGENCIES

4.1 Key roles & responsibilities of the institution

4.1.1 The institution shall be expected to formulate and document the DTMs delivery channel strategy clearly outlining the role and use of the various delivery channels including marketing offices or agencies in the provision of deposit taking microfinance services to its customers.

- 4.1.2 The institution shall maintain an effective system of internal control and oversight of its operations in marketing offices or agencies.
- 4.1.3 The institution shall ensure that proper controls are incorporated into its system so that all relevant compliance issues are noted and fully addressed, particularly the identification, assessment, monitoring and reporting on the institution's compliance.
- 4.1.4 The institution shall ensure that it has proper security control policies to safeguard the information, communication and technology systems and data from both internal and external threats.
- 4.1.5 The institution shall provide its officers stationed in marketing offices or agencies with such operation manuals and risk management policy documents as shall be needed to ensure proper provision of services to customers.
- 4.1.6 The institution shall ensure that the scope and coverage of its internal audit function is expanded to be commensurate with the increased complexity and risks inherent in carrying out business in a marketing office or agency and that the audit department is appropriately staffed with personnel having sufficient technical expertise to perform the expanded role.
- 4.1.7 It shall be incumbent upon the institution to take steps to ensure that it has updated and modified where necessary, its existing risk management policies and processes to cover its operations in marketing offices or agencies.
- 4.1.8 The integration of the systems in marketing offices or agencies with the main deposit taking microfinance systems shall require an integrated risk management approach for all deposit taking microfinance activities.

4.2 Risk Management

- 4.2.1 Institutions shall pay special attention to operational risk, legal risk, liquidity risk, reputation risk and compliance with rules for combating money laundering and financing of terrorism.
- 4.2.2 Institutions shall take measures to mitigate risks associated with operating in a marketing office or agency including, limits, customer transactions, cash management, cash security, security of premises and insurance policies;
- 4.2.3 Product programs, procedure manuals and customer limit structures should be devised keeping in mind the implications for operational and liquidity risks.
- 4.2.4 Technology risks regarding information and data security in wireless networks shall be properly identified and mitigated.

4.2.5 A business continuity management plan shall be developed to mitigate any significant disruption, discontinuity or gaps in the business conducted in a marketing office or agency.

4.2.6 The institution shall have in place systems and personnel to adequately monitor and control deposit taking microfinance operations in marketing offices or agencies.

4.3 Data and Network Security

4.3.1 Institutions shall put in place systems that specifically and at a minimum address the following issues:

- i) Physical and logical security of infrastructure;
- ii) Availability of services;
- iii) Data confidentiality and integrity;
- iv) Encryption of PIN and electronic transactions;
- v) Customer accountability and non-repudiation on transactions;
- vi) Error messaging and exception handling.

4.3.2 Notwithstanding the provisions of clause 4.3.1 above, where an institution is using or relying on operational processes which do not involve the use of electronic equipment or processes, the institution shall take the necessary measures to ensure the security, safety, non-intrusion and non-interception of those processes by unauthorised persons.

PART V RELOCATION AND CLOSURE OF MARKETING OFFICES AND AGENCIES

5.1 Relocation of a marketing office or agency

5.1.1 No institution shall relocate a marketing office or agency without the written approval of the Central Bank.

5.1.2 An application for approval to relocate a marketing office or agency shall be made to the Central Bank in the Form set out in the Second Schedule to this Guideline and shall be accompanied by the following information –

- i) The reasons given for the change of location and plan for settlement or transfer of any claims and liabilities;
- ii) Completion of the preparations of the new place of business premises; and
- iii) Analysis of the potential and feasibility for changing the place of business location.

5.1.3 The Central Bank may impose monetary penalties on an institution that contravenes any of the provisions of Clause 5.1.

5.2 Closure of a marketing office or agency

5.2.1 No institution shall, without the written approval of the Central Bank –

- i) Close or cause to be closed a marketing office or agency, in a manner so as to permanently cease operation of business; or
- ii) Close temporarily or cause the temporary closure of a marketing office or agency.

5.2.2 An application to close a place of business shall be made to the Central Bank in the Form set out in the Second Schedule to this Guideline and shall be accompanied by-

- i) The reasons for such closure; and
- ii) A plan for settlement or transfer of assets and liabilities.

5.2.3 An application for temporary closure of a marketing office or agency excluding public holidays and Sundays shall be accompanied by the following information –

- i) The reasons for closure;
- ii) Period of closure; and
- iii) The date at which the place of business shall reopen.

5.2.4 In deciding on the approval to authorise the closure of a marketing office or agency, the Central Bank shall be satisfied that:

- (a) The public interest in the location of the institution will not be jeopardized by the closure; and
- (b) Alternative financial services provided by the institution are available in the locality.

5.2.5 The Central Bank shall consider the application for permanent closure of a marketing office or agency and if satisfied, shall grant an approval for permanent closure of the marketing office or agency.

5.2.6 An institution granted approval to close its marketing office or agency permanently shall –

- (a) Report the closure to the Central Bank not later than fourteen days after closure; and
- (b) Give a notice of the closure to the members of the public who were generally served by that marketing office or agency, at least three months prior to such closure.

- 5.2.7 An institution granted approval to close a marketing office or agency, whether permanently or temporarily, shall ensure that a notice to that effect is brought to the attention of members of the public who would ordinarily be served by the marketing office or agency.
- 5.2.8 An institution that contravenes any of the provisions of Clause 5.2 is liable to such administrative sanction as the Central Bank may impose.
- 5.2.9 The provisions of Clause 5.1.1 and Clause 5.2.1 shall not be deemed to have been violated if the relocation or closure of a marketing office or agency is occasioned by circumstances beyond human control.

PART VI CONSUMER PROTECTION

6.1 Consumer protection measures

Appropriate consumer protection measures against risks of fraud, loss of privacy and loss of service shall be put in place by institutions for purposes of protecting the interests of consumers.

6.2 Minimum requirements

As a minimum, the following requirements shall be complied with at all times:

- i) Institutions shall establish mechanisms that enable their customers or other consumers to appropriately identify their marketing offices or agencies and the services provided therein;
- ii) Marketing offices or agencies shall issue receipts or acknowledgements for all transactions carried out. Institutions shall provide their marketing offices or agencies with equipment or tools that generate receipts or acknowledgements for transactions that would require the issuance of receipts or acknowledgements. In this regard, both physical and electronic receipts or acknowledgements are permissible;
- iii) Institutions shall establish a complaints redress mechanism and shall ensure proper communication of this mechanism to their customers;
- iv) All customer complaints emanating from marketing offices or agencies shall be addressed within a reasonable time and in any case not later than thirty days from the date of reporting or lodging the complaint with the institution. Institutions shall keep records of all customer complaints and how such complaints are redressed;
- v) In the provision of services in marketing offices or agencies, institutions shall use secure systems that ensure customer information confidentiality.

6.3 Disclosures

6.3.1 A marketing office or agency shall disclose to the institution's customers in a conspicuous place in the premises:

- i) The telephone contacts through which customers can contact the head office or branch of the institution responsible for the marketing office or agency ;
- ii) The name, telephone number and location of the institution's branch to which the marketing office or agency reports its activities.

PART VII REMEDIAL MEASURES AND ADMINISTRATIVE SANCTIONS

7.1 Remedial measures

If an institution fails to comply with this Guideline, the Central Bank may pursue any or all corrective actions against the institution as provided for under the Microfinance Act.

7.2 Administrative sanctions

In addition to the remedial measures referred to in Clause 7.1, the Central Bank may pursue any or all of the following administrative sanctions against an institution, its board of directors or officers:

- i) Prohibition from carrying on business in any or all marketing offices or agencies ;
- ii) Prohibition from opening new marketing offices or agencies;
- iii) Revocation of approval of marketing offices or agencies;
- iv) Withholding of corporate approvals.

PART VIII AMENDMENT OF THE GUIDELINE

8.1 The Central Bank may at any time amend, delete, vary, add or change any provision of this Guideline and such amendment, deletion, variation, addition or change shall become effective from the date of notification to the institutions by the Central Bank.

8.2 Such notification may be effected through a circular, directive, notice, letter or other means communicating the intention of the Central Bank to the institutions generally.

EFFECTIVE DATE

Effective date: The effective date of this Guideline shall be 1st June 2012.

Enquires

Enquiries on any aspect of this Guideline should be referred to:

Director,
Bank Supervision Department
Central Bank of Kenya
P.O. Box 60000-00200
NAIROBI

Tel. No. 2860000 E-mail: fin@centralbank.go.ke

**OPENING, RELOCATION AND CLOSURE OF MARKETING OFFICES AND AGENCIES OF DEPOSIT
TAKING MICROFINANCE INSTITUTIONS (DTMs) CBK/DTM/MFG/2**

FIRST SCHEDULE

FORM I: OPENING MARKETING OFFICES AND AGENCIES

PART I: GENERAL INFORMATION

1. Name of institution.....
2. Type and Number of Licence.....
3. Total number and locations of places of business and dates of establishment
.....
4. Paid up capital.....
5. Total deposits.....
6. Outstanding loan balance.....
7. Capital as % of deposits.....

PART II: MARKETING OFFICES AND AGENCIES

8. Type of the proposed place of business (marketing offices and/or agencies)
.....
9. Exact location of the proposed place of business.....
 - a) Location: Town, County, Constituency
 - b) Postal address and telephone numbers.....
 - c) Physical address: - L.R No....., Building..... and Street.....

Town.....

10. Whether a suitable premise is available?

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

.....

11. Is the new place of business:-

a) Self-owned?.....Yes/No*If yes, provide title deed, sale agreement or any other proof of ownership.....

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

12. Proposed date of commencing operations.....

13. The institution to provide all or any other supporting documents and requirements in accordance with the Act and this Guideline or as it deems necessary.

Signed.....

Chief Executive Officer

Date:

Note: Delete whichever is not applicable.

FORM 2: APPLICATION FOR RENEWAL FOR THE APPROVAL OF MARKETING OFFICES AND AGENCIES

Institution:

Financial Year:

Date:

	Type of proposed place of business (marketing office/agency)	Postal Address			Physical Address				Deposit Taking Microfinance Services	Working Hours	DTM Branch Responsible
		Postal Add.	LR Number	Tel. No.	Building and Street	Town	County	Constituency			
1.											
2.											
3.											
4.											
5.											

Name: *(Chief Executive Officer or Designated Senior Officer)*

Signed:

Dated at this Day of.....20.....

SECOND SCHEDULE

FORM I : CLOSURE OR RELOCATION OF MARKETING OFFICES AND AGENCIES

PART I: GENERAL INFORMATION

1. Name of institution.....
2. Type and Number of Licence.....
3. Total number and locations of places of business and dates of establishment
.....
4. Type of current place of business to be closed or relocated (i.e. marketing offices and/or agencies)
.....

PART II: RELOCATION

5. Name of the place of business to be relocated if already identified.....
.....
 - a) Postal address and telephone numbers.....
 - b) Physical address: - L.R No....., Building..... and Street.....

Town, County, Constituency
6. State reasons necessitating relocation of place of business.....
.....
7. Proposed new location of the place of business.....
 - a. Postal address and telephone numbers.....
 - b. Physical address: - L.R No....., Building..... and Street.....

Town, County, Constituency

8. Is the new place of business:-
- a) Self-owned?.....Yes/No*If yes, provide title deed, sale agreement or any other proof of ownership.....
 - b) Leased?..... Yes/No*If yes, provide lease agreement.....
9. Proposed date of commencing operations.....

PART III: CLOSURE

10. Location of current place of business proposed place of business (i.e. marketing offices and/or agencies) to be closed -
- a. Postal address and telephone numbers.....
 - b. Physical address: - L.R No....., Building..... and Street.....

Town, County, Constituency
11. Specify type of closure, whether permanent or temporary.....
- If temporary closure, specify the proposed dates for closure and opening...
.....
12. State reasons necessitating closure of place of business.....
.....
13. Indicate profitability of the marketing office and/or agency in the last year.....
14. Provide the proposed action plan on the settlement of assets and liabilities on existing customers.....
15. Provide the proposed action plan on current branch employees.....
16. Are there any microfinance facilities provided in the vicinity?.....
- If so, state by whom.....

Signed.....

Chief Executive Officer

Date:

Note: Delete whichever is not applicable