

S T A T U T O R Y I N S T R U M E N T S

2017 No.

**THE FINANCIAL INSTITUTIONS (AGENT BANKING)
REGULATIONS, 2017.**

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S T A T U T O R Y I N S T R U M E N T S

2017 No.

The Financial Institutions (Agent Banking) Regulations, 2017.

*(Under sections 4(2b) and 131(1b) of the Financial Institutions Act,
Act No.2 of 2004)*

IN EXERCISE of the powers conferred upon the Central Bank by sections 4 (2b) and 131(1b) of the Financial Institutions Act, 2004, and in consultation with the Minister responsible for finance, these Regulations are made this..... day of 2017.

PART I—PRELIMINARY

1. Title

These Regulations may be cited as the Financial Institutions (Agent Banking) Regulations, 2017.

2. Application

These Regulations apply to all financial institutions in Uganda and their agents.

3. Objectives

The objectives of these Regulations are—

- (a) to provide for agent banking as a delivery channel for offering banking services in a cost effective manner to foster financial inclusion;
- (b) to set out activities which may be carried out by an agent and to provide a framework for offering agent banking services; and
- (c) to provide a set of minimum standards of customer protection and risk management to be adhered to in the conduct of agent banking.

4. Interpretation

In these Regulations, unless the context otherwise requires—

“Act” means the Financial Institutions Act, Act No.2 of 2004;

“agent” means a person contracted by a financial institution to provide financial institution business on behalf of the financial institution in accordance with the Act and these Regulations;

“agent banking” means the conduct by a person of financial institution business on behalf of a financial institution as may be approved by the Central Bank;

“branch” means a place of business which forms a legally dependent part of a financial institution and which conducts directly all or some of the operations inherent in the business of the financial institution;

“financial institution” means a company licensed to carry on or conduct financial institutions business in Uganda and includes a commercial bank, merchant bank, mortgage bank, post office savings bank, credit institution, a building society, an acceptance house, a discount house, a finance house, an Islamic financial institution or any institution which by regulations issued under the Act is classified as a financial institution by the Central Bank;

“parent branch” means the branch responsible for the operations of an agent or agent outlet;

“principal” means a financial institution that contracts an agent to do any act for him or her, to represent him or her, in dealing with a third party;

“real time” means the electronic processing of instructions instantaneously upon data entry or receipt of a command;

“suspicious transaction” refers to a transaction which is inconsistent with a customer’s known legitimate business or personal activities or with the normal business for that type of account or business relationship, or a complex and unusual transaction or complex or unusual pattern of transaction;

“two-factor authentication” refers to the identification of a user by means of the combination of two different components which the user knows, possesses or something that is inseparable from the user.

PART II—AGENT BANKING

5. Approval to conduct agent banking

(1) A financial institution shall not conduct agent banking in Uganda without the prior written approval from the Central Bank.

(2) An application for approval to conduct agent banking shall be made to the Central Bank in Form 1 specified in Schedule 1.

(3) An application shall provide the following information—

- (a) the strategy for agent banking including—
 - (i) the number of agents per district for the next twelve months;
 - (ii) management of the agent network including agent training, agent supervision and liquidity management.
- (b) the proposed technology platform to run the agent banking, which must be capable of processing instructions issued electronically in real time;
- (c) the agent selection due diligence policy and procedures;
- (d) the policies and procedures applicable to the provision of services through agents; and
- (e) the services intended to be provided through agents;

(4) The application shall be accompanied with the following supporting documents—

- (a) a draft of the agency agreement between the financial institution and the agent; and
- (b) a risk management framework for agent banking.

(5) In addition to the requirements in subregulation (2), the Central Bank may request for additional information as it may consider necessary.

6. Persons eligible to be agents

(1) A person shall not be appointed as an agent by a financial institution unless that person is—

- (a) a sole proprietorship;
- (b) a partnership;
- (c) a company;
- (d) a cooperative society;
- (e) a microfinance institution; or
- (f) an entity approved by the Central Bank.

(2) A financial institution shall not conduct agent banking with its employees, affiliates or associates.

7. Pre-requisites for conducting agent banking

(1) A financial institution shall put in place an effective agent selection process and carry out due diligence on every person it intends to engage as an agent.

(2) A person shall not be appointed as an agent, unless the person—

- (a) has for consecutive six months prior to the making of the application operated an account in a financial institution licensed by the Central Bank;

- (b) has a licensed business;
- (c) has a physical address;
- (d) has adequate and secure premises; and
- (e) has been engaged in the licenced business under subregulation (2)(b) for at least twelve months.

(3) A financial institution shall conduct a suitability assessment on the person using Form 2 specified in Schedule 1.

(4) Notwithstanding subregulation (1), the Central Bank shall vet and approve each person selected by a financial institution to act as it's agent for purposes of conducting agent banking.

8. Grant of approval

Where the Central Bank is satisfied that all the application requirements have been satisfied by a financial institution, the Central Bank shall, within three months of receipt of all the requisite information, communicate its decision regarding the application to the financial institution.

PART III—PRINCIPAL-AGENT RELATIONSHIP

9. Obligations of a financial institution

(1) A financial institution approved to conduct agent banking is liable for the actions or omissions of it's agent relating to agent banking.

(2) A financial institution shall—

- (a) assign each agent or agent outlet a unique identification number;
- (b) assign each agent or agent outlet to a specific parent branch;
- (c) display a list of agents at the agents' respective parent branch;
- (d) ensure that the technological infrastructure supporting agent banking runs effectively;

- (e) put in place adequate and secure technological infrastructure capable of processing all transactions in real time;
- (f) ensure that agents have appropriate equipment to carry out agent banking, including the ability to generate hard copies of transaction receipts;
- (g) ensure that agents receive appropriate training and are provided with the necessary manuals and supporting tools and procedures;
- (h) ensure appropriate management and supervision of all agents;
- (i) set limits and monitor compliance within such limits;
- (j) ensure that all agents provide services in accordance with consumer protection requirements determined by the Central Bank;
- (k) compensate agents for the services rendered as per the contract;
- (l) update the Central Bank periodically on its agent network in accordance with regulation 19;
- (m) ensure that all agents comply with the requirements of these Regulations.

(3) Subject to subregulation (4), an agent shall not use as part of its name words like “bank”, “financial institution”, “financial intermediary” or their derivatives or any other word suggesting that the agent is itself a financial institution;

(4) An agent who is permitted under any applicable law to use the words bank, financial institution, financial intermediary or their derivatives or any other word suggesting that the agent is itself a financial institution is exempted from the generality under subregulation (3).

10. Agency agreement

(1) A financial institution approved to conduct agent banking shall enter into a written agreement with each agent before the agent conducts business on behalf of the financial institution.

(2) A person shall not offer financial services on behalf of a financial institution without a valid agency agreement.

(3) An agency agreement under subregulation (1), shall—

- (a) specify the liability of any acts or omissions of the agent to the extent of the agent's express or implied authority, to be born by the financial institution;
- (b) set out the services to be provided by the agent;
- (c) set out the activities the agent is prohibited from engaging in;
- (d) provide for the remuneration arrangement;
- (e) set out the anti-money laundering and countering the financing of terrorism arrangements including a requirement for an agent to report suspicious transactions to the financial institution;
- (f) provide the responsibilities and liabilities of the agent and the financial institution;
- (g) require that all information or data the agent collects in relation to agent banking is property of the financial institution and subject to data protection requirements;
- (h) provide for the power of the Central Bank to access any information, systems and premises related to the agent;
- (i) set out transaction limits of the agent;
- (j) specify the terms and conditions of termination of the agent agreement;

- (k) provide that the Central Bank can direct the termination of the agreement as it deems appropriate;
- (l) set out transitional clause on rights and obligations of the financial institution and the agent upon termination or cessation of the agency agreement;
- (m) specify that employees of the agent shall not be treated as employees of the financial institution.

11. Non-exclusivity

(1) An agreement between a financial institution and an agent shall not include a provision prohibiting the agent from conducting agent banking with other financial institutions.

(2) An agent may provide agent banking for other approved financial institutions provided that—

- (a) the agent has entered into an agency agreement with each financial institution for provision of agent banking services; and
- (b) the agent has the capacity to manage the transactions for the different financial institutions.

(3) A financial institution shall assess the capacity of an agent to manage transactions for different financial institutions under subregulation (2)(b) in terms of—

- (a) space;
- (b) technology; and
- (c) adequacy of funds or float of the agent.

(4) Without prejudice to subregulation (2), an agent shall not be discriminated against on grounds of providing agent banking services to more than one financial institution.

(5) For purposes of subregulation (4), “discriminate” means to give different treatment to different agents attributed only or mainly to their respective agent banking with more than one financial institution.

12. Termination of agency agreement

(1) Every agency agreement shall provide for termination of the agreement.

(2) Notwithstanding subregulation (1), an agency agreement may be terminated by the financial institution, if an agent—

- (a) carries on agent banking when it’s licenced business has ceased;
- (b) is convicted of a criminal offence involving fraud, dishonesty or other financial impropriety;
- (c) sustains a financial loss or damage to such a degree which, in the opinion of the financial institution, makes it impossible for the agent to gain its financial soundness within three months from the date of the loss or damage;
- (d) is being dissolved or wound up through court or otherwise;
- (e) in case of a sole proprietor, he or she dies or becomes mentally incapacitated;
- (f) transfers, relocates or closes its place of agent banking without prior written consent of the financial institution;
- (g) fails to renew or does not hold a valid business licence; or
- (h) contravenes these Regulations.

(3) Where an agency agreement is terminated, the financial institution shall cause a notice of the termination to be published within the locality of the premises where the agent was operating or in any other way or manner as to inform the general public of the cessation of the agency agreement.

13. Treatment of agent and its outlets

(1) An agent with an outlet whose operations or activities are managed, controlled, supervised or subject to the direction of the head office of the agent and has no separate legal existence from it, shall be part of the agent for purposes of qualifying to be an agent.

(2) An agent shall be liable for any acts or omissions of its outlet.

(3) Notwithstanding subregulation (1) and (2), a financial institution shall obtain approval from the Central Bank for each outlet of its agent.

14. Permissible activities

(1) An agent may provide any of the following services in conducting agent banking—

- (a) the collection and forwarding of information and supporting documents for account opening or applications for payment instruments;
- (b) cash deposit and cash withdrawal;
- (c) the payment services including bill payments;
- (d) money transfers;
- (e) facilitating disbursement and repayment of loans;
- (f) the receipt and forwarding of documents in relation to loans and leases and any other permitted products;
- (g) payment of retirement and social benefits;
- (h) account balance enquiry;
- (i) the provision of account statements;
- (j) the provision of a communication and distribution channel for the institution;
- (k) any other activity as the Central Bank may approve.

(2) A financial institution shall determine, based on risk assessment and due diligence on the agent, which of the activities under subregulation (1) an agent shall provide.

15. Prohibited activities

(1) An agent shall not—

- (a) offer financial institution business on its own accord, except where it is the agent's principal business as at the time of engagement;
- (b) continue with the agency banking where it has a proven criminal record involving fraud, dishonesty, integrity or any other financial impropriety;
- (c) provide, render or hold out to be providing or rendering any banking service which is not specifically permitted in the agency agreement;
- (d) operate or carry out a transaction when the system is down or when there is any communication failure in the system, or in the customer's absence;
- (e) carry out a transaction when a system generated receipt or acknowledgement of the transaction cannot be generated;
- (f) charge fees directly to customers;
- (g) undertake cheque deposits or encashment of cheques;
- (h) distribute cheque books;
- (i) distribute debit cards, credit cards or PIN mailers;
- (j) conduct foreign exchange transactions;
- (k) subcontract other persons to provide agency banking services;

- (l) provide agency banking services at a location other than the physical address of the agent;
- (m) open accounts, grant loans or advances or carry out any appraisal function for purposes of opening an account or granting of a loan or any other facility except as may be permitted by any other written law to which the agent is subject; or
- (n) be a guarantor to the financial institution's clients.

(2) A financial institution shall stop all agent banking relations with its agent, if in the opinion of the financial institution, the agent's licenced business has ceased or significantly diminished;

16. Anti-money laundering and countering the financing of terrorism.

(1) A financial institution shall train its agents on anti-money laundering and combating of financing of terrorism requirements as provided for in the Anti-Money Laundering Act, 2013 and Anti-Terrorism Act, 2002.

(2) A financial institution shall set limits for purposes of combating money laundering and terrorist financing.

(3) The financial institution shall notify the Central Bank of the limits set under subregulation (2) or any revisions made on the limits.

(4) For avoidance of doubt, the Central Bank reserves the right to direct a revision of any limits set under subregulation (2).

17. Consumer protection.

(1) A financial institution granted approval to conduct agent banking under these Regulation shall—

- (a) put in place adequate policies and procedures to address financial consumer protection; and

- (b) ensure that all its agents conduct business in accordance with consumer protection requirements applicable to the financial institution.

(2) Subject to subregulation (1), a financial institution shall also ensure that—

- (a) every transaction—
 - (i) is effected in real time;
 - (ii) requires at least two-factor authentication; and
 - (iii) generates a standard, easily identifiable copy system receipt or acknowledgement with the name of the financial institution, unique identification number of the agent who processed the transaction and a unique transaction reference number;
- (b) the agent clearly displays in a conspicuous place at its premises of operation of agent banking—
 - (i) the signage of the financial institution which shall include the responsible parent branch, the agent's unique identification number and the dedicated telephone line through which customers can contact the financial institution;
 - (ii) a list of the services offered and the prohibited activities;
 - (iii) a written notice that no charges or fees are levied at the agent location; and
 - (iv) all fees and charges imposed on services or products under agent banking.
- (c) the agent shall avail for inspection key facts documents for products which are being advertised or offered through the agent;

- (d) complaints are handled by the financial institution in an appropriate and effective manner, such that—
 - (i) information about procedures for handling complaints is easily available at an agent’s location or it’s outlet;
 - (ii) every agent is trained on receiving complaints and handling their resolution or escalation;
 - (iii) a dedicated toll free telephone line for complaint resolution is provided; and
 - (iv) all records are kept for each complaint lodged;
- (e) both the financial institution and it’s agent shall uphold—
 - (i) privacy and confidentiality of customer information and data; and
 - (ii) data protection.

PART IV—SUPERVISION

18. Supervision

- (1) A financial institution shall ensure that all it’s agents comply with these Regulations and other relevant regulatory provisions.
- (2) Notwithstanding subregulation (1), the Central Bank has power to—
 - (a) request for any information from an agent at any time where it deems it necessary;
 - (b) carry out an examination of an agent;
 - (c) appoint an appropriate professional at the cost of the financial institution, to conduct a special audit on an agent banking service;
 - (d) direct an agent to take any action or cease from any conduct as it may be deemed necessary;

- (e) direct the termination of an agency agreement or closure of an agency business as it deems it fit; or
- (f) direct a financial institution to take measures against an agent.

19. Reporting and notification requirements

(1) A financial institution shall provide monthly reports to the Central Bank on its agent banking operations as specified in Schedule 2.

(2) Unless otherwise advised by the Central Bank, a financial institution shall notify the Central Bank at the end of every month of—

- (a) new agents;
- (b) new outlets of agents providing agent banking;
- (c) exited agents and outlets; and
- (d) any changes made to particulars of each agent as specified in Schedule 3.

PART V—MISCELLANEOUS

20. Remedial measures and administrative sanctions

(1) Where the Central Bank determines that a financial institution is not in compliance with these Regulations, it may impose any or all of the corrective actions prescribed in Part IX of the Act.

(2) In addition to the remedial measures prescribed in subregulation (1), the Central Bank may impose any or all of the following administrative sanctions with regard to a financial institution that fails to comply with these Regulations:

- (a) suspension of establishment of new agent locations;
- (b) prohibition from engaging in any further agent banking; or
- (c) any other sanctions as the Central Bank may deem appropriate.

