



## **CENTRAL BANK OF THE GAMBIA (CBG)**

### **REVISED REGULATIONS FOR THE LICENSING AND OPERATION OF FOREIGN EXCHANGE BUREAUX**

Made in accordance with the Provisions of Section 56 and 57 of the Central Bank of the Gambia Act, 2005

THESE REGULATIONS SUPERSEDE ALL PREVIOUS REGULATIONS ON THE OPERATIONS OF FOREIGN EXCHANGE BUREAUX IN THE GAMBIA

#### **ARRANGEMENT OF REGULATIONS**

1	INTERPRETATION
2	AUTHORISATION
3	CONDITIONS GOVERNING THE ISSUE OF LICENCE TO OPERATE A FOREIGN EXCHANGE BUREAU IN THE GAMBIA
4	CHANGE OF OWNERSHIP
5	BOARD AND MANAGEMENT
6	DURATION OF LICENCE AND COMMENCEMENT OF OPERATIONS
7	OPERATIONS AND DEALINGS IN FOREIGN EXCHANGE
8	RECORDS OF TRANSACTIONS
9	UNAUTHORISED BUSINESS
10	MONEY LAUNDERING
11	RELOCATION OF FOREIGN EXCHANGE BUREAU AND OPENING OF BRANCHES
12	AUDITED ACCOUNTS
13	CONFIDENTIALITY
14	INVESTIGATION
15	REVOCATION OR SUSPENSION OF LICENCE AND CLOSURE OF BUSINESS
16	LIABILITIES OF DIRECTORS AND STAFF
17	DISCLAIMER
18	AMENDMENTS TO THESE REGULATIONS

***FEBRUARY 2009***

## **1 INTERPRETATION**

In these regulations, unless the context otherwise requires:

- (a) “Bank” means the Central Bank of The Gambia (CBG)
- (b) “bank” means a financial institution licensed to conduct banking business in the Gambia and whose operations include the acceptance of deposits transferable by cheque or other means of third party transfer.
- (c) “banking business” means the business of receiving deposits on current, savings or other account, paying or collecting cheques drawn by or paid in by customers, provision of finance consultancy and advisory services relating to corporate and investment matters, making or managing investment on behalf of any person, and the provision of insurance marketing services and capital market business or such other services as the Secretary of State may by regulations designate as banking business.
- (d) “bureau” means foreign exchange bureau or “bureau de change”
- (e) “authorized dealer” means a licensed foreign exchange business under this regulation
- (f) “foreign exchange business” means buying and selling of foreign exchange and engagement in money transfer services.
- (g) “authorization” means the issuance of a license to conduct foreign exchange business

## **2 AUTHORISATION**

- a) Only persons duly authorised by the Bank are allowed to operate a bureau in The Gambia
- b) Except in such circumstances as may be prescribed, no person other than an authorized dealer shall buy or sell foreign currency to and from the public.
- c) Any person who contravenes or fails to comply with these regulations shall be guilty of an offence and shall be punished in accordance with Section 74 of the Central Bank of The Gambia Act, 2005

### **3 CONDITIONS GOVERNING THE ISSUE OF A LICENCE TO OPERATE A FOREIGN EXCHANGE BUREAU**

#### **I Pre-licensing Requirements**

- a) A person applying for a licence to operate a bureau must be of Gambian nationality
- b) An application for a licence to operate a bureau must be made on the prescribed form at a fee stipulated by the Bank
- c) The duly completed form must be submitted to the office of the First Deputy Governor, Central Bank, 1- 2 ECOWAS Avenue, Banjul and accompanied by the following:
  - ❖ A completed questionnaire on each director/ shareholder
  - ❖ A copy of an authentic Gambian passport of each equity holder
  - ❖ A recent certificate of character of each equity holder
  - ❖ A business registration certificate
  - ❖ A certified opening statement of affairs
  - ❖ A 6-month business plan
  - ❖ A draft Memorandum and Articles of Association
  - ❖ A certificate of incorporation
- d) Upon receiving an application, the Bank may issue a conditional approval prior to the issuance of a full licence
- e) The Bank reserves the right to reject any application in accordance with the provisions of the CBG Act, 2005

#### **II Deposit Requirements, Current Account and Business Name**

Having been granted approval in principle by the Bank, the applicant must meet the following requirements for the issue of a full licence to operate a bureau.

- a) The registered name of the business must include the words “foreign exchange bureau” or “bureau de change”

- b) Maintain a minimum and refundable mandatory deposit of D1.0 million domiciled with the Bank which may be invested in Government securities.
- c) Payment of a non-refundable application-processing fee of GMD5000 and an annual licensing fee of GMD5000 to the Bank.
- d) A bureau must commence operations within one month of its issuance with a licence. Failure to commence operations within the specified period may lead to the revocation of the licence. The Bank must be notified in writing of the commencement of operations
- e) A prepared registered office in which to establish and locate the bureau. The premises of the proposed bureau must be accessible to the public and suitable to the Bank in all respects for the operations of a bureau.
- f) The registered office of a foreign exchange bureau shall be used as a complete and separate entity within the premises.

Where an applicant fully satisfies the above requirements, the CBG may issue a licence for the operation of a bureau.

A licence to operate a bureau is neither transferable nor assignable

All fees and mandatory deposits shall be subject to periodic review.

### **III Post licensing requirements**

- a) Upon the issue of a licence by the Bank and prior to the commencement of operations, the licensee must:

Provide the Bank with the following information on the shareholders and Directors of the proposed bureau:

- ❖ Names
- ❖ Residential addresses
- ❖ Specimen signatures
- ❖ Recent passport-size photographs endorsed by the Managing Director

- b) Any change in respect to shareholders, directors of the bureau must get prior approval of the Bank.

- c) No persons other than those declared under subsection 3 (III a) above shall be allowed to carry out foreign exchange transactions on behalf of a licensed bureau
- d) A breach of any of the conditions under this regulation shall result to the revocation of the licence and closure of the bureau

#### **4 CHANGE OF OWNERSHIP**

- a) Prior authorisation of the Bank must be sought for the registration of any transfer of shares of a bureau
- b) A bureau is required to submit to the Bank in each financial year or at such times as the Bank may direct, full particulars of all its shareholders
- c) Violation of the provisions of these requirements shall result to the revocation of licence and closure of the bureau.

#### **5 BOARD AND MANAGEMENT**

- a) The Bank must be satisfied that the directors and senior executives of the bureau are fit and proper persons. All appointments to the board of directors and senior management of a bureau are subject to prior notification of the Bank. In this regard, an individual questionnaire must be completed and submitted to the Bank.
- b) All changes in the senior management and staff of the bureau must be brought to the notice of the Bank

#### **6 DURATION AND RENEWAL OF LICENCE**

- a) A licence for the operation of a bureau will be valid from April 1<sup>st</sup> to March 31<sup>st</sup>, a period of 12 months, and will be renewable upon application to the Bank. An application for renewal must be submitted to the Bank at least one month before the expiration of the current licence
- b) An application for renewal of licence must be supported with:
  - i. A completed renewal form
  - ii. Financial accounts of the previous year
  - iii. Valid business registration certificate
- c) Renewal of a licence to operate a bureau is at the discretion of the Bank subject to satisfactory conduct of business during the preceding 12 months of operations. Satisfactory conduct of business here includes but not limited to the following:

- ❖ Selling and buying foreign currency to and from the public
- ❖ Engagement in money transfer services
- ❖ Maintenance of proper books of accounts and registers. These include the general ledger, vault register of currencies and income and expenditure records.
- ❖ Issuing of accurate official receipts on all foreign exchange transactions
- ❖ Timely submission of accurate returns to the Central Bank
- ❖ Display of rates on a board at a conspicuous place within the premises
- ❖ Display of licence, business registration certificate and certificate of incorporation at the operating offices
- ❖ Any other conditions as may be determined by the Bank from time to time

d) Failure to meet any of the renewal requirements will lead to non renewal of the licence.

## **7 OPERATIONS AND DEALINGS IN FOREIGN EXCHANGE**

- a) A bureau shall engage in spot transactions only, i.e. the sale and purchase of foreign currency with immediate delivery against settlement at the agreed rate.
- b) Every bureau is free to quote its selling and buying rates
- c) All bureaux are obliged to prominently display their rates on a board in a conspicuous place in their registered office and other places of business in the following manner:
  - i. for each currency always give a two-way quote
  - ii. show them next to one another and with equal prominence to one another
  - iii. where different rates apply between bank notes and instruments, show those rates clearly
- d) If there is a charge in foreign exchange transaction whether prescribed as commission or otherwise, the notice in (iii) above should also:

- i. give details of the charge with equal prominence to that given to the rates of exchange
- ii. for fixed charges show the amount of charge (e.g bututs per transaction up to Dalasi.... and butut.... thereafter.
- iii. for percentage charges show the rate by number followed by the percentage (e.g. 1% or 2% etc)

e) Submission of returns:

- i.) All bureaux are required to submit daily returns to the Foreign Department of the Bank on purchases and sales volumes and dealing rates by 10.am of the succeeding working day
- ii.) The foreign currency stock position at close of business on the last day of each month must be disclosed to the Bank within the first week of the following month
- iii.) The head office of each bureau is required to collate the transactions of its branches or subsidiaries and submit to the Bank monthly returns of a consolidated position of the business performance
- iv.) Failure to comply with the provisions of this regulation shall attract a fine of GMD1,000 and an additional fine of GMD300 per return for each day of non-compliance. Submission of incorrect or incomplete returns will be sufficient grounds for the imposition of fines
- v.) Persistent default in any of the provisions of this regulation shall lead to the revocation of licence.
- f) A bureau shall not refuse to sell foreign exchange to a member of the public if such foreign exchange is available

## **8 RECORDS OF TRANSACTIONS**

Every bureau shall maintain the following records in respect of its business transactions:

- a) register of purchase and sale of currency notes
- b) register of purchase and sale of travellers' cheques and bank drafts
- c) Vault register for stock of currencies
- d) Receipts of all business transactions.

Failure to maintain any of these records shall attract a fine of GMD1,000 and an additional fine of GMD300 for each register per day of the default. Persistent default shall lead to revocation of licence.

## **9 UNAUTHORISED BUSINESS**

- a) A bureau is not a bank and is therefore forbidden to engage in the following:
  - i.) Opening an account for customers
  - ii.) Establishment of Letter of Credit facilities
  - iii.) Any other banking business
- b) A bureau shall not accept deposits of Dalasi or any other currency with the intent to obtain foreign currency or Dalasi equivalent either in whole or in part at a future date
- c) Any violations of the provisions under this regulation shall result to the revocation of the licence and the closure of business

## **10 MONEY LAUNDERING**

- a) All bureaux are required to take necessary measures to effectively counteract money laundering in accordance with the Money Laundering Act 2003
- b) Every bureau shall take appropriate measures to ensure that their employees are aware of the dangers of money laundering. These measures shall include proper training of employees to enable them recognise operations which may relate to money laundering as well as instructing them on how to proceed on such circumstances
- c) all bureau shall comply with reporting requirements as may be prescribed by the Bank from time to time

## **11 RELOCATION OF FOREIGN EXCHANGE BUREAU AND OPENING OF BRANCHES**

- a) A bureau shall not relocate business premises without prior approval of the Bank
- b) Prior authorisation of the Bank is required for a bureau to operate a branch either within or outside the Gambia
- c) Prior authorisation of the Bank is required for a bureau to carry out foreign exchange transactions outside its registered premises on a temporary basis



- d) Having secured the Bank's approval to relocate, a bureau could change operating premises within the country under the incumbent license
- e) Any violation of this regulation may lead to suspension of the licence for a period to be determined by the Bank.

## **12 AUDITED ACCOUNTS**

- a) Every bureau shall engage the services of external auditors to prepare the audited accounts of its business operations
- b) The External Auditor shall prepare for submission to the bureau and the Bank a statutory audit report in accordance with the provisions of the Company's Act and accounting standards prescribed by the Bank.
- c) The audited financial statements shall be submitted by the bureau to the Bank within three months after the end of each financial year. The license of a bureau shall not be renewed if it fails to meet these requirements.

## **13 CONFIDENTIALITY**

All transactions of a bureau shall be made in strict confidence and maintained as such unless otherwise required by the law

## **14 INVESTIGATIONS**

- a) The Bank reserves the right to order an investigation into the affairs of any bureau if in its opinion the conduct of the bureau justifies such action
- b) Any person duly authorised by the Bank to act on its behalf may at any time enter and inspect the premises where a licensee is carrying on business or suspected to be carrying on business. He may examine any books; documents or equipment on the premises which he reasonably requires to inspect for the purposes of ascertaining whether a violation of these regulations or any other notice issued by the Bank has been committed. He may take photocopies of books and documents, and other samples
- c) A licensee shall have his licence revoked if he, his agent or servant
  - refuses an authorised person admission into the premises;
  - hinders the authorised person from carrying out his duties;
  - fails on demand to produce and surrender to the authorised person documents, books and other requests for inspection.

## **15 REVOCATION OR SUSPENSION OF LICENCE AND CLOSURE OF BUSINESS**

- a) The Bank reserves the right to revoke or suspend the licence of a bureau if:
  - i.) the conduct of the bureau is detrimental to the foreign exchange market
  - ii.) the bureau ceases to carry on the business for a period of 10 (ten) working days without the Bank's prior approval
  - iii.) the bureau as a company goes into liquidation.
  - iv.) the bureau fails to comply with any of the conditions for the granting of its licence as provided under the regulations in general and regulation 2 in particular
  - v.) the bureau is discovered to have provided false information in the application for a licence
  - vi.) the bureau is in violation of any other provision of this regulation for which the sanctions so determine
- b) Where a licence to operate a bureau has been revoked or suspended, the licensee shall cease to advertise the business and or carry out foreign exchange transactions with immediate effect
- c) A bureau wishing to permanently cease or suspend business shall give a month's notice to the Bank.
- d) A bureau that permanently ceases to operate or has its licence revoked, may apply to the Bank for a refund of the mandatory deposit
- e) The Bank shall reserve the right to use the deposit to offset liabilities of the business prior to a refund of the deposit

## **16 LIABILITIES TO DIRECTORS AND STAFF**

Where an offence is committed under these Regulations by a bureau, any person who at the time of the commission of the offence was a director, secretary, manager or other staff of the bureau, or who has proposed to act in any such capacity shall be held liable to be punished accordingly as determined by the Bank.

## **17 DISCLAIMER**

Under these Regulations neither the Bank nor a member of its Board of Directors, its agent or employee shall be liable for any act or omission

in the discharge of the functions of the Bank unless it is shown that the act or omission was done in bad faith.

## **18 AMENDMENT OF THESE REGULATIONS**

The Bank reserves the right to make amendments to these regulations as it deems fit from time to time.