

Legal Brief

Lawhill & Co. Advocates – Premier Tax & Corporate Attorneys

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From our Financial Services Desk

A Snapshot of the Bank of Tanzania (Financial Consumer Protection) Regulations, 2019

- *The Regulations ensure that vulnerable consumers of the financial services are well protected.*
- *They provide for the consumer protection policies and procedures to be followed by the Financial Service Provider.*
- *They ensure that there is ethical conduct of business and minimize the risks of financial loss that are detrimental to the consumers.*
- *Financial Service providers are required to protect consumers from risks inherent in their operations and consider consumer outcomes in the conduct of their business.*
- *They are overall part of the regulatory body's initiatives in ensuring that the financial services sector is efficiently regulated.*

1. Introduction

The Bank of Tanzania (Financial Consumer Protection) Regulations, 2019 (Government Notice No. 884 of 2019), are aimed at safeguarding consumer rights, enable consumer to make informed financial decisions, ensure fairness in the provision of products and services by financial service providers, and how best to use financial services for a healthy development of financial sector and economy. Financial service provider is defined in the Regulations as institutions licensed, regulated and supervised by the Bank of Tanzania ('BOT'). Financial service products are such as: Payment Products e.g. Mobile Financial Services; Card Payments (ATM), Internet Banking, Cheques, Remittance (MTO, MNOs); Banking Products e.g. credit facilities, deposits, and telegraphic transfers; Bureau de Change; Financial Leasing Institutions; and Credit Reference Bureau. The Regulations apply to all financial service provider licensed, regulated and supervised by BOT in Mainland Tanzania and Tanzania Zanzibar, except where prescribed otherwise by the BOT in other Regulations.

2. Scope of the Issued Financial Consumer Protection Regulations

The Financial Consumer Regulations lay out consumer protection policies and procedures to be followed by the Financial Service Provider. They also include some compliance aspects for the Financial Service Provider. These compliance aspects are supervised by BOT. We set out in bullet form some important parts of the Regulations as hereunder.

3. Governance by Financial Service Providers

- The regulations provide for the responsibility of Board of Directors of Financial Service Provider.
- They provide for the responsibility of the Senior Management of Financial Service Provider.
- They set out the Internal Control System for effective consumer protection.
- They provide for the requirement of having in place Policies and Procedures in that, every Financial Service Provider is required to have in place appropriate Financial Consumer Protection

policies which are consistent with the provisions of the Regulations. The Regulations include some items that must be reflected in the Financial Consumer Protection Policy.

- They impose the obligation for the submission of reports - Every Financial Service Provider shall report financial protection matters to BOT.

4. Fair and Equitable Treatment of Consumers

- Non-discrimination of consumers based on social status, physical ability, marital status, race, gender, age, religion and tribe.
- Required to avoid unfair business practices. Unfair business practices is defined by the Regulation.
- Put in place formal sales policies and procedures for their products or services.
- Contract to be prepared in either English or Kiswahili language based on consumer's preference. And financial service provider shall not use technical terminology or language in contract and where used it must be clearly defined.
- Required to provide a consumer a contract with terms and conditions which are fair and set out rights and obligations of the parties to the transaction.
- Where Financial Service Provider appoints an agent, it must enter into a Formal Agency Agreement.

5. Financial Education and Awareness

- Financial Service Provider shall develop a consumer strategy and submit it to BOT for review.
- Financial Service Provider shall develop Financial Education Programs.
- Financial Service Provider shall develop a communication strategy.
- Develop a mechanism for monitoring and evaluation for financial education initiatives.

6. Disclosure and Transparency

- Provides for the content and format of information on financial products and services.
- Financial Service Provider shall disclose the terms and conditions of the agreement.
- Provide for information for account functionality such as account maintenance fee.
- The BOT shall issue Guidelines for the charges and fees to be imposed on product or service by the Financial Service Provider. The Financial Service Provider shall not impose a fee and charges in excess to the guideline issued by BOT.
- Provide for the information to be given to the consumer for credit facilities and instruments.
- Provide for provision of accounts statements.
- Financial Service Provider shall provide a consumer who has fully settled financial obligation with a written declaration to that effect.
- Financial Service Provider is required to notify a consumer in the event of the change of terms and conditions.

7. Responsible Business Conduct

- Financial Service Provider is required to respond to the consumer timely and in writing.
- Provides for the ethics of advertisement and sales promotion.
- Financial service provider is required to assess consumer creditworthiness before consumer signs up for any financial product or service.
- Provides for the sale or transfer of debt.

8. Protection of Consumers Assets and Information

- Financial Service Provider is required to safeguard consumer's assets.
- Provides for the protection of consumers financial information by putting in place appropriate security and control measures.
- Financial Service Provider shall is required to make rules for collection and usage of data.
- Financial Service Provider shall implement policies and procedures to ensure confidentiality.
- Financial Service Provider is required to put in place rules for the release and use of consumer information by authorised third party.

9. Complaints Handling and Redress Mechanism

- Consumer have a right to file a complaint against Financial Service Provider upon dissatisfaction or being aggrieved by the conduct of financial services.
- Financial Service Provider to establish mechanism for handling consumer complaints'.
- Financial Service Provider is required to develop a fair redress mechanism and compensation policy for an aggrieved customer.
- Provides for the time framework for resolving customer complaints.
- Provides for declaration of complaints resolution.
- Provides for the complaints handling procedure by the BOT.
- Provides for the powers of the Bank against Financial Service Provider.
- Provides for sanctions against Financial Service Provider for non-compliance of the Regulations.

10. Our assessment of the Regulations

Lawhill views the Regulations as a welcome move as they aim at ensuring consumers of financial services are protected from abusive and unfair business practices. For instance, the mushrooming of the microfinance service providers had posed a challenge as the sector did not have a comprehensive regulatory framework. Unlike the banking sector which was regulated under the Banking and Financial Institutions Act, 2006; and the Banking and Financial Institutions (Microfinance Activities) Regulations, 2014, GN. No. 298 of 2014; as amended by the Banking and Financial Institutions (Microfinance Activities) (Amendment) Regulations, 2015, GN. No. 103 of 2015, the non-deposit taking microfinance services sector was devoid of censorship by the regulatory body. It was not until 2018, when the Government enacted the Microfinance Act, 2018 providing for the licensing, regulation and supervision of microfinance business.

In order to ensure that the financial sector is well regulated, various regulations were issued by the Bank of Tanzania; which are: The Microfinance (Savings and Credit Cooperative Societies) Regulations, 2019, GN. No. 675 of 2019; the Microfinance (Non-Deposit Taking Microfinance Providers) Regulations, 2019, GN. No. 679 of 2019; and the Microfinance (Community Microfinance Groups) Regulations, 2019, GN. No. 678 of 2019. Each of these regulations have some provisions relating to consumer protection applicable to each tier, the Consumer Protection Regulations are therefore of general application to all financial service providers except where prescribed otherwise by the Bank in other Regulations. This means that, the Consumer Protection Regulations are aimed at addressing financial service providers licensed under the Banking and Financial Institutions Act, 2016, and those licensed under the Microfinance Act, 2018 where other Regulations do not provide for a particular aspect.

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