

BANKING LAW



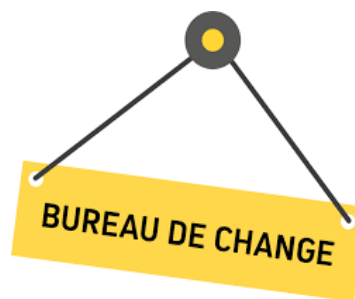
KEY ISSUES:

- **Licensing:** Bureau De change must be registered Company in Tanzania. Proof of Citizenship is mandatory
- **Capital Requirements:** Bureau De change must set aside and declare availability of Tanzania Shillings 1Billion for capital.
- **Governance and Operations** Bureau De change required to have board of Directors and CEO and proper management
- **Transfer of Money:** Bureau De Change now allowed to undertake money transfer business.

TANZANIA CENTRAL BANK ISSUES NEW REGULATIONS ON BUREAU DE CHANGE

A. INTRODUCTION

On 21st June 2017 the Bank of Tanzania (BOT) issued a directive to all Bureau de change on re-licensing requirements. The directive among others required all Bureau de change to be relicensed and comply to operational requirements among others, capital requirements, staffing and governance. Subsequently, late 2018 the Central Bank conducted physical supervisory compliance review of the Bureau de change in Tanzania. The review resulted into closure of all Bureau de change in the country to pave way for compliance review and relicensing of Bureau de change. Several reasons were alluded to the closure of the Bureau de changes including; some Bureau de change were said to be source of Money Laundering, Tax Evasion and poor Know Your Customer (KYC) Compliance. Following the rationalization of the Compliance review, the Bank of Tanzania has issued new regulations on Foreign Exchange, namely; the Foreign Exchange (Bureau de Change) Regulations, 2019 (GN No. 450 of 2019) published on 07th June, 2019. These regulations revoke the earlier regulations issued on 2015 namely the Foreign Exchange (Bureaux de Change) Regulations, 2015 (GN No. 245 of 2015).



This update therefore, highlights the changes brought about by the regulations and its impact to the business and community at large.

B. LICENSING AND CAPITAL REQUIREMENTS:

Licensing: Regulation 4-16 provides for licensing eligibility, requirements, process and conditions subsequent of approval of a license of Bureau de change. Notably, the following are the key issues imposed by the regulations:-

- It is the requirement of the Regulation that, any Bureau de change must be a registered Company in Tanzania and limited by shares. License to operate a Bureau de change shall be issued only by the Central Bank.

LICENSING

- The regulations have laid down the requirements for application for Business license. Among others, it is the requirement for proof of Citizenship of every shareholder and director of the Bureau de change.
- Moreover, all application for license must be accompanied with a feasibility study substantiating the demand gap of the services on the location where the Bureau de change will be located.
- A Bureau de change may increase/add its branch network in Tanzania but only upon obtaining a license from the Central Bank. Regulation 16 requires the Central Bank to issue a branch opening license on a special circumstance such as the needs of a particular location. Among others, a feasibility study substantiating the demand gap must be submitted to the Central Bank for that purpose. It is important to note that, Bureau de change cannot relocate to another area without prior approval of the Central Bank and payment of TZS 1 Million as relocation fee (regulation 21).

Capital Requirement: The capital requirement for operating a Bureau de change has been increased whereby, any application for business license must be accompanied with a written declaration and assurance of availability of not less than Tanzania Shillings 1Billion set aside for capital. Any addition of Capital must have Central Bank approval.

Capital

C. GOVERNANCE

Board of Directors and CEO: The new Regulations stipulate the requirements for Bureau de Change to have a Board of Directors with at least two directors. It is also the requirement that, a person shall not be appointed as Board Member or Chief Executive Officer of a Bureau De change unless such person has requisite skills and experience but also been approved by the Central Bank (regulation 17 and 18).

Organisation Structure: To be licensed, a Bureau de change must have also an organization structure and internal controls in place. Among others, a Bureau de change must have 3 Officers, one being a finance officer, Operations officer and Compliance officer. Additionally, a Bureau de change must also have an internal auditor, but his role may be outsourced (Regulation 19). Besides, it is a requirement of regulation 38 that, employees of a Bureau de change must be adequately trained on its business, laws and regulations.



D. MODE OF OPERATIONS OF BUREAU DE CHANGE

Currency transaction and Money Transfer: The Scope of Operations of Bureau de change have been expanded from the routine spot trading of currencies and approved payment instruments to include money transfer business. Bureau De change is now allowed to conduct money transfer business as sub-agents of international money transfer agencies or mobile network operators. However, money transfer is limited to be conducted through locally



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licensed Banks, Financial Institutions or mobile network operations in Tanzania (Regulation 20). A Bureau de change engaged in money transfer is required to deposit to the Central Bank US\$ 100,000 as a security deposit to be utilized against any claims by the customers for unremitted funds (Regulation 24).

No Limit on Amount and Currency: Further, Regulation 20 permits Bureau de change to sell foreign currency for any purpose and any amount subject to documentary evidence on residence or traveling information or relevant invoices in relation to importation, medical treatment, education or training expenses. Any transaction conducted by Bureau de change must be accompanied by an electronic fiscal receipt for sale or purchase made, the purpose, the currency and the amount (regulation 23). In effecting any international money transfer, Bureau de change must require a relevant documentary evidence for such transfer such as employment contract, residence permit, invoices, audited reports (incase of payment of dividends) etc.

Prohibited transactions:

- **No Sale of Forex to Non Resident:** A Bureau de change is prohibited from selling foreign currency to a non-resident person unless such person proves that the Tanzanian Shillings were obtained in Tanzania from the sale of foreign currency or obtained from a lawful activity with proof thereof (regulation 28).
- **No transfer for Investment purposes:** Not only that but also, Regulation 29(2) categorically prohibits Bureau de change from processing any money transfers for investment purposes outside the East Africa Community.



E. OTHER REQUIREMENTS

Anti-Money Laundering: Bureau de change are required to maintain customer identification and internal procedures and controls in line with Anti Money Laundering and Counter Finance Terrorism regulations for identifying and reporting suspicious transactions.

Offences and Revocation of License: Bureau de change license may be revoked by the Central Bank where it obtains foreign exchange fraudulently, submits false information or fails to comply with the law. However, Central bank is required to issue a prior notice before such revocation. Any penalty imposed by Central Bank shall not exceed US\$ 3,000.

The new Foreign Exchange (Bureau de Change) Regulations, 2019 (GN No. 450 of 2019) has streamlined operations of Bureau de Change with enhanced Compliance and regulatory requirements. But, on the other hand, the regulations have expanded the operational scope of Bureau de change from conventional trading in currency to allow money transfer business outside the country.

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