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THE UNITED REPUBLIC OF TANZANIA

No. 5

5<sup>th</sup> November, 2018

***SPECIAL BILL SUPPLEMENT***

*to the Gazette of the United Republic of Tanzania No.7. Vol.99 dated 5<sup>th</sup> November, 2018*  
Printed by the Government Printer, Dodoma by Order of Government

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THE MICROFINANCE ACT, 2018

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**NOTICE**  
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This Bill to be submitted to the National Assembly is published for general information to the public together with a statement of its objects and reasons.

Dar es Salaam,  
5<sup>th</sup> November, 2018

JOHN W.H. KIJAZI  
*Secretary to the Cabinet*

**A BILL**

*for*

**An Act to provide for the licensing, regulation and supervision of microfinance business; and to make provisions for related matters.**

**ENACTED** by Parliament of the United Republic of Tanzania.

**PART I  
PRELIMINARY PROVISIONS**

Short title and commencement	1. This Act may be cited as the Microfinance Act, 2018 and shall come into operation on such date as the Minister may, by notice in the <i>Gazette</i> , appoint.
Application	2. This Act shall apply to Mainland Tanzania.
Interpretation	3. In this Act, unless the context otherwise requires-
Cap.342	“Bank” means the Bank of Tanzania; “bank” has the meaning ascribed to it in the Banking and Financial Institutions Act; “community financial group” means a group collectively formed and managed by members and registered under this Act to undertake microfinance business;

- “credit reference bureau” means an entity specialized in collecting and sale of credit performance information for individuals and entities.
- Cap. 211 “Commission” means the Tanzania Cooperative Development Commission established under the Cooperative Societies Act;
- “consumer” means a client or member of a microfinance service provider who acquires or intends to acquire the services of the microfinance service provider.
- “Delegated Authority” means a public institution delegated by the Bank the mandate to execute the functions and powers of the Bank under this Act;
- “entity” means a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organisation or any other form of undertaking that is not specifically listed herein but that is commonly recognised as an entity; and, includes any Government or government agency or institution;
- “foreign owned microfinance provider” means a microfinance service provider incorporated outside Tanzania or a foreign microfinance service provider incorporated in Tanzania and whose majority owners or shareholders are foreigners.
- “microfinance business” means the deposit and non-deposit taking business and includes the activities stipulated under section 4;
- “micro leasing” means finance leasing operations where the average value of the asset in the portfolio is up to ten million Tanzanian shillings and the leasing term does not exceed twenty four months;
- “micro loan” means small loan provided to low income population including small enterprises, low income households and individuals;
- Cap 394 “micro insurance” has the meaning ascribed to it under the Insurance Act;
- “microfinance service provider” means an entity or a person registered or licenced to undertake microfinance business under this Act including deposit and non-depositing taking microfinance service providers as classified under section 5;
- “Minister” means the Minister responsible for finance;
- Cap. 423 “money laundering” has the meaning ascribed to it under the Anti Money Laundering Act;

Cap 211 “place of business” means a branch, office, agency or mobile unit of a microfinance service provider open to the public;  
“Register” means a register of microfinance service providers referred to under section 53;  
“SACCOS” has the meaning ascribed to it under the Cooperative Societies Act.

**PART II  
MICROFINANCE SERVICE PROVIDERS**

Microfinance business

4.-(1) The microfinance business shall be undertaken by microfinance service providers established in terms of their respective establishing laws and recognized under this Act.

(2) The microfinance service providers under sub-section (1) shall undertake microfinance business in accordance with the provisions of this Act.

(3) Without prejudice to the generality of sub section (2), the microfinance business undertaken under this Act shall include-

- (a) receiving money, by way of deposits or interest on deposits or borrowing and which is lent to members or clients;
- (b) accepting savings and providing loans or other credit facilities to micro or small enterprises and low income households or individuals;
- (c) providing micro credit, micro savings, micro-insurance, micro-leasing, micro-pension and micro-housing finance;
- (d) transfer and payment services, including digital microfinance services;
- (e) providing financial education; and
- (f) any other related service as may be prescribed in the regulations.

Categorization of microfinance service providers

5.-(1) For the purpose of this Act, there shall be four tiers of microfinance service providers as follows:

- (a) Tier 1, shall comprise of deposit taking microfinance service providers namely banks and microfinance banks;
- (b) Tier 2, shall comprise of non-deposit taking microfinance service providers such as credit companies and financial organizations;

- (c) Tier 3, shall comprise of SACCOS; and
- (d) Tier 4, shall comprise of community financial groups, individual money lenders and community based organizations.

(2) For the purpose of this section, “financial organization” means any organisation duly incorporated or registered under relevant law and which is licensed to undertake microfinance business under Tier 2 in accordance with this Act.

Place of  
business

6.-(1) Each microfinance service provider shall have a place or places of business with proper address for carrying out its microfinance business.

(2) Subject to this section, a microfinance service provider shall not open or close a place of business without the prior approval of the Bank or Delegated Authority.

(3) A microfinance service provider which fails to comply with the requirements of this section, commits an offence and shall be subjected to a penalty as prescribed in the regulations.

Governance  
of  
microfinance  
service  
providers

7.-(1) The governance of the microfinance service providers shall be as provided for in their respective establishing laws or constitutions.

(2) Notwithstanding sub-section (1), the Bank may, if it is satisfied that the governance of a microfinance service provider is not compatible with microfinance business, issue general or specific directives to the microfinance service provider regarding its governance and such directives shall be complied with.

Accountabi-  
lity of  
microfinance  
service  
providers

8. A microfinance service provider shall, for the purposes of undertaking microfinance business, be accountable to the Bank, Delegated Authority or any other authority in accordance with the applicable laws.

Minimum  
capital  
requirements

9. A microfinance service provider who undertakes microfinance business under this Act shall comply with the minimum capital requirements prescribed in the regulations.

Minimum  
liquid  
assets

10.-(1) A microfinance service provider shall maintain such minimum holding of liquid assets as may be prescribed in the regulations.



- (2) For the purposes of this section, “liquid assets” means-
- (a) notes and coins which are legal tender in the United Republic;
  - (b) balances held at banks or microfinance service providers;
  - (c) treasury bills and bonds which are freely marketable and re-discountable at the Bank; or
  - (d) such other assets as the Bank or Delegated Authority may specify.

(3) A microfinance service provider which fails to comply with the requirements of subsection (1), within such period as the Bank or Delegated Authority may prescribe, commits an offence and shall be subjected to a penalty as prescribed in the regulations.

Transforma-  
tion of  
microfinance  
service  
providers

11.-(1) Any microfinance service provider may, upon application and attaining the required criteria prescribed in the regulations, transform from its respective Tier to another Tier.

(2) Where a microfinance service provider transforms to another tier, such microfinance service provider shall be regulated in accordance with the laws governing the respective tier and this Act.

(3) For the purposes of this section, the criteria for transformation of a microfinance service provider shall include-

- (a) minimum capital requirement for transformation;
- (b) number of members and customers that qualifies for transformation;
- (c) nature of microfinance service business that may transform; and
- (d) any other relevant criteria prescribed in the regulations.

(4) Notwithstanding the provisions of this section, the Bank may, prior to directing transformation of microfinance service provider, conduct an assessment regarding sustainability of microfinance service provider after transformation.

(5) Where upon assessment, the Bank is satisfied that a microfinance service provider meets the criteria for transformation, it may direct transformation of such microfinance service provider upon such terms and conditions as may be prescribed by the Bank.

(6) Where a microfinance service provider without reasonable cause, fails to comply with the directive issued under subsection (5), the Bank shall take such measures as may be appropriate to ensure compliance.

PART III  
ADMINISTRATIVE PROVISIONS

Functions of  
Bank

12.-(1) The Bank shall be responsible to oversee and monitor microfinance service providers operating or undertaking microfinance business in terms of this Act.

(2) Subject to subsection (1) the functions of the Bank shall be to regulate and supervise the operations of microfinance business in accordance with this Act and other relevant laws.

(3) Without prejudice to the generality of sub sections (1) and (2), the Bank shall in particular-

- (a) issue licence to qualified microfinance service providers in accordance with this Act;
- (b) advise and report to the Minister on matters relating to microfinance business;
- (c) develop and manage database for microfinance service providers;
- (d) inspect, monitor and evaluate the performance of microfinance business;
- (e) issue circulars and guidelines for microfinance services providers;
- (f) assess and issue approvals for transformation of microfinance service providers;
- (g) ensure proper management of complaints relating to microfinance business;
- (h) ensure protection of consumers of microfinance service providers;
- (i) ensure that credit information relating to microfinance business are collected, disseminated and shared; and
- (j) perform such other functions as may be required for proper regulation and supervision of microfinance business.

Powers of  
Bank

13. In the performance of its functions under this Act, the Bank shall have power to-

- (a) investigate or inquire into the operations of microfinance service providers;
- (b) inspect and examine books of accounts, records, returns and any other document of microfinance service providers;

- (c) demand for information related to the activities of microfinance service providers;
- (d) instruct on the proper management of microfinance service providers;
- (e) enter at any reasonable time, into any premises of a microfinance service provider or any premises in which it is believed, on reasonable grounds, that books of accounts, records or documents in any form relating to the microfinance service provider's business are kept;
- (f) open or cause to be opened any strong room, safe or other container in which it is suspected, on reasonable grounds, that there are any securities, books of accounts, records or documents of a microfinance service provider;
- (g) require any officer, employee or agent of a microfinance service provider to explain or furnish information or documents concerning the microfinance service provider's management or activities; and
- (h) exercise such powers as may be necessary for the better performance of its functions under this Act.

Delegation  
of powers  
and  
functions of  
Bank

14.-(1) For the better carrying out of its regulatory and supervisory functions and powers under this Act and subject to such conditions and procedures as the Bank may specifically prescribe, the Bank may, by notice published in the *Gazette*, delegate any of its functions or powers:

- (a) in the case of functions and powers relating to microfinance service providers in Tier 3, to the Commission; and
- (b) in the case of functions and powers relating to microfinance service providers in Tier 4, to the local government authorities.

(2) A Delegated Authority under sub section (1) shall exercise such functions and powers in accordance with the conditions, procedures and any other directives issued by the Bank from time to time.

(3) Any power or function delegated under this section, when exercised or performed by a delegated authority, shall be deemed to have been exercised or performed by the Bank.

(4) No delegation made under this section shall prevent the Bank from performing or exercising the powers and functions so delegated.

(5) Notwithstanding subsection (1), unless otherwise approved by the Minister, the Bank shall not delegate its functions and powers relating to regulation and supervision of microfinance service providers in Tier 2.

Caps 287  
and 288

(6) For the purposes of this section, the term “local government authority” has the meaning ascribed to it under the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act.

Role of  
Minister

15.-(1) The Minister shall, for the purpose of ensuring conducive policy environment for the microfinance business, formulate policy matters and supervise implementation of microfinance policy.

- (2) For the purpose of sub-section (1), the Minister shall-
- (a) enhance enabling environment to support microfinance business;
  - (b) ensure sustainability of microfinance business;
  - (c) issue directives to the Bank on the implementation of the policy relating to microfinance business;
  - (d) ensure promotion of microfinance business, transparency and accountability; and
  - (e) perform any other role for better carrying out of the provisions of this Act.

(3) In performing his role under this Act, the Minister may, after consultation with relevant Ministers, require or demand information or documents relating to microfinance business from Ministries, institutions or office and such Ministry, institutions or office shall be obliged to comply.

(4) The Minister may make regulations for the better carrying out of his roles under this Act.

#### PART IV LICENSING AND REGISTRATION OF MICROFINANCE SERVICE PROVIDERS

*(a) Licensing of Microfinance Service Providers Under Tiers 1, 2, and 3*

Prohibition  
of  
unlicensed  
microfinance  
business

16.-(1) Notwithstanding the provisions of section 27 of this Act, a person shall not carry out any microfinance business, unless such person is licensed in accordance with the provisions of this Act.

(2) Any person who contravenes provisions of this section commits an offence and shall, upon conviction-

- (a) in the case of the tiers 1 and 2, be liable to a fine of not less than twenty million shillings but not exceeding one hundred million shillings or to imprisonment for a term of not less than two years but not exceeding five years or to both;
- (b) in the case of the tier 3, be liable to a fine of not less than ten million shillings but not exceeding fifty million shillings or to imprisonment for a term of not less than two years but not exceeding five years or to both.

Application  
for licence  
under Tier 1  
or 2

17.-(1) A person who desires to undertake microfinance business under Tier 1 or Tier 2 shall apply to the Bank for a license in a manner as prescribed in the regulations.

(2) An application for a licence in respect of Tier 1 or Tier 2 shall be submitted to the Bank in the prescribed form as set out in the regulations and shall contain the particulars of the applicant, the microfinance business involved, location or place of business and such other particulars as may be required for that purpose.

(3) The application under subsection (1) shall be accompanied with-

- (a) a certified copy of a certificate of registration or incorporation issued in terms of a relevant law;
- (b) a prescribed nonrefundable application fee; and
- (c) such other information or documents as the Bank may require for the purpose of the application.

Application  
for licence  
under Tier 3

18.-(1) A person who intends to undertake microfinance business under Tier 3 shall apply to the Bank or Delegated Authority for a license in a manner as prescribed in the regulations.

(2) An application for a licence under Tier 3 shall be submitted to the Bank or Delegated Authority in the prescribed form and shall be accompanied with-

- (a) a certified copy of certificate of registration issued in terms of Cooperative Societies Act;
- (b) a prescribed nonrefundable application fee; and

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- (c) such other information or documents as the Bank or Delegated Authority may require for the purpose of the application for licensing.

Consideration of application

19. Upon receipt of an application under this Act, the Bank or Delegated Authority may, within the period prescribed in the regulations, consider the application to ascertain its compliance with the prescribed requirements.

Issuance of licence

20. Where the Bank or Delegated Authority is satisfied that an applicant has met all requirements for license under this Act, the Bank or Delegated Authority shall-

- (a) issue the license to the applicant upon such terms and conditions as the Bank or Delegated Authority may consider necessary; and
- (b) register the licensed microfinance service provider in the register.

Validity of licence

21. A license issued under this Act shall have effect from the date it is issued and shall be valid unless revoked by the Bank or Delegated Authority.

Refusal to issue licence

22.-(1) The Bank or Delegated Authority may refuse to issue a licence where-

- (a) the applicant has failed to meet prescribed terms and conditions for licensing; or
- (b) the applicant has provided false or misleading information;

(2) Where the Bank or Delegated Authority has refused to issue a licence, it shall within seven days from the date of its decision, notify the applicant in writing stating the reasons for such refusal.

Re-application and appeal

23.-(1) An applicant whose application has been refused may reapply, if the deficiencies that formed the basis for refusal of the initial application or subsequent review have been corrected or otherwise addressed.

(2) The applicant who is aggrieved by the decision of the Bank or Delegated Authority under sub section (1) may, within twenty one days from the date of such decision-

- (a) in the case of the Delegated Authority, appeal to the Bank; or

(b) in the case of the Bank, appeal to the Minister.

Suspension  
or revocation  
of licence

24.-(1) The Bank or Delegated Authority may, by notice to the microfinance service provider, suspend or revoke a licence where the microfinance service provider-

- (a) ceases to carry on microfinance business;
- (b) violates the terms and conditions prescribed in the licence;
- (c) is wound up, liquidated or otherwise dissolved;
- (d) is deregistered under a relevant law; or
- (e) has contravened the provisions of this Act.

(2) The Bank or Delegated Authority shall, within fourteen days of the revocation, cause a name of a microfinance service provider whose licence has been revoked to be published in the *Gazette* and in the newspaper of wide public circulation.

Procedure  
for  
revocation or  
suspension  
of licence

25.-(1) Where a microfinance service provider is in default of the terms and conditions in respect of which a licence was issued, the Bank or Delegated Authority may serve on the microfinance service provider a default notice in writing specifying the nature of the default.

(2) Upon receipt of the default notice the holder shall make representation in writing to the Bank or Delegated authority regarding remedy or rectification of default.

(3) Where the Microfinance service provider fails to remedy or rectify the default within the time specified in the default notice or has not made a representation satisfactory to the Bank or Delegated Authority, the Bank or Delegated Authority shall suspend or revoke the licence issued and notify in writing the microfinance service provider accordingly.

(4) The microfinance service provider aggrieved by the decision of the Bank or Delegated Authority to suspend or revoke the licence, may-

- (a) in the case of a decision made by the Bank appeal to the Minister; and
- (b) in the case of a decision made by Delegated Authority appeal to the Bank.

Effect of  
revocation

26.-(1) Where a licence of the microfinance service provider is revoked in terms of this Act, the Bank or Delegated Authority shall cause to be removed the name of the microfinance

service provider from the register and shall in writing, direct such microfinance service provider-

- (a) to stop its operations with effect from the date of revocation; and
- (b) to manage and resolve within the time as may be prescribed all issues relating to assets and liabilities regarding its consumers or members.

(2) Where a microfinance service provider fails to comply with the directives issued under subsection (1), the Bank shall have powers to take such measures as may be appropriate to ensure protection of rights of consumers or members.

*(b) Registration of Microfinance Service Providers Under Tier 4*

Registration  
of  
microfinance  
service  
providers  
under Tier 4

27.-(1) A person who intend to undertake microfinance business under Tier 4 shall apply for registration to the Bank or Delegated Authority in the manner as may be prescribed in the regulations.

(2) An application for registration shall be made to the Bank or Delegated Authority in the prescribed form and shall be accompanied with:

- (a) two copies of the constitution duly signed by all members of the applicant;
- (b) members' resolution to form and register a microfinance entity duly signed by all members;
- (c) proposed organizational structure and names of proposed leaders of the applicant;
- (d) a letter of reference from the ward or village authority recommending the registration of the applicant;
- (e) payment of a prescribed non-refundable fee; and
- (f) any other documents or information as the Bank or Delegated Authority may require.

Refusal of  
registration  
under Tier 4

28.-(1) Subject to section 27 of this Act, the Bank or Delegated Authority may refuse to register an applicant if the applicant has-

- (a) failed to meet prescribed requirements for registration;
- or
- (b) provided false or misleading information.

(2) Where the Bank or Delegated Authority refuses to register the applicant under this section, it shall within seven days from the date of its decision, notify the applicant in writing stating the reasons for such refusal.



(3) An applicant whose application has been refused pursuant to this section may submit fresh application based on the reasons of refusal and such application shall be treated as a new application and shall be subjected to the same process.

Certificate of registration

29.-(1) The Bank or Delegated Authority shall, upon registration of a microfinance service provider under Tier 4 issue to such provider a certificate of registration.

(2) The certificate of registration issued under sub-section (1) shall contain-

- (a) the name and address of the microfinance service provider;
- (b) the date and validity of registration;
- (c) the area of operation or place of business of the microfinance service provider; and
- (d) such terms and conditions as may be required.

Effect of registration

30.-(1) A certificate of registration shall be a conclusive evidence of the microfinance service provider to operate or undertake microfinance business in terms of its constitution and this Act.

(2) A registered microfinance service provider shall by virtue of its registration be a body corporate capable in its name of-

- (a) suing and being sued;
- (b) acquiring purchasing or otherwise disposing of any property, movable or immovable;
- (c) entering into contract; and
- (d) performing all acts which can be done by a body corporate and which are necessary for the proper performance of its duties and functions.

(3) A person who undertakes the microfinance business under Tier 4 without being registered in accordance with this Act, commits an offence.

Suspension or cancellation of certificate of registration

31.-(1) The Bank or Delegated Authority may suspend or cancel a certificate of registration if it is satisfied that:

- (a) the terms or conditions prescribed in the certificate have been violated;
- (b) the microfinance service provider has ceased to operate; and
- (c) the microfinance service provider operates contrary to this Act or other relevant laws.

(2) Where a certificate of registration has been suspended or cancelled, the Bank or Delegated Authority shall-

- (a) notify the relevant microfinance service provider in writing stating the reasons for suspension or cancellation;
- (b) order such microfinance service provider to stop its operations; and
- (c) remove the name of such microfinance service provider from the register.

(3) The provisions of section 25 relating to procedures for suspension and revocation of licence shall apply *mutatis mutandis* to suspension or cancellation of certificate of registration issued under this Act.

*(c) Licensing of a foreign owned Microfinance Service Providers*

Licensing of  
foreign  
microfinance  
service  
provider

32.-(1) A foreign owned microfinance service provider which desires to undertake microfinance business shall submit an application for a licence to the Bank or Delegated Authority.

(2) Procedures for application under subsection (1) shall be prescribed in the regulations.

(3) Where a foreign owned microfinance service provider undertakes microfinance business in Tanzania, such microfinance service provider shall comply with applicable laws on local content including employment and training of Tanzanians.

PART V  
MANAGEMENT AND SUPERVISION OF  
MICROFINANCE SERVICE PROVIDERS

*(a) Management of Microfinance Service Providers*

Management  
of  
microfinance  
business

33. Management of operations, finances and business of a microfinance service provider shall be vested in the microfinance service provider.

Management  
and take-  
over

34.-(1) Notwithstanding section 33, the Bank or Delegated Authority may take over the management of the microfinance service provider where-

- (a) the Bank or Delegated Authority considers that a microfinance service provider is not-
  - (i) in a sound financial condition;

- (ii) operating in accordance with sound administrative and accounting practices and procedures; and
- (iii) adhering to proper risk-management policies;
- (b) a microfinance service provider fails to comply with the minimum capital requirements prescribed under this Act;
- (c) a microfinance service provider refuses to be inspected by the Bank or Delegated Authority as required by this Act;
- (d) a microfinance service provider's licence has been cancelled or revoked;
- (e) the continuation of microfinance business is detrimental to the interests of microfinance clients; or
- (f) a microfinance service provider is undertaking microfinance business in a manner contrary to this Act.

(2) A party to a contract with a microfinance service provider shall not be relieved of his obligations on the ground that the microfinance service provider is under the management of the Bank or Delegated Authority.

(3) Costs of management of a microfinance service provider during the period of take over shall not be borne by the Bank or Delegated Authority.

(4) The procedures for management and take-over of a microfinance service provider under this section shall be as stipulated in the regulations.

Prohibited and permissible activities

35.-(1) The Bank shall, for proper management of microfinance service providers, through regulations prescribe prohibited and permissible activities of microfinance service providers.

(2) A microfinance service provider shall not engage in any prohibited activity under this Act.

(3) Where a microfinance service provider without reasonable cause, fails to comply with the provisions of this section, the Bank or Delegated Authority shall take such measures as may be appropriate to ensure compliance.

Payment of dividends or interests

36.-(1) A microfinance service provider shall pay dividends on its shares to its shareholders or make any other form of distribution or payment of interest to its consumers or members in accordance with the provisions of this Act and other relevant laws.

(2) The payment of dividends, interest and other form of distribution under subsection (1) including the period for such payment shall be in the manner as prescribed in the regulations.

Books of accounts and other records

37. A microfinance service provider shall keep proper books of accounts and other records in relation to its operations which are sufficient to show and explain its transactions and financial position.

Preparation of accounts

38.-(1) Every microfinance service provider shall, in each financial year, prepare accounts in accordance with the prescribed standards.

(2) The prescribed standards for preparation of accounts for microfinance service providers under Tiers 1, 2 and 3 shall comply with the international financial reporting standards.

(3) The accounts and other financial records of a microfinance service provider shall be denominated in Tanzania shillings and shall comply with the requirements of the applicable laws.

Audit of accounts

39. (1) The accounts of microfinance service provider except for microfinance service providers under Tier 4 shall be audited at least once in a year by a qualified and registered auditor in a manner provided for in the regulations.

(2) Notwithstanding provisions of sub section (1), the accounts and financial records of the microfinance service providers under Tier 4 shall be audited or monitored as prescribed in the regulations.

(3) Where the Bank or Delegated Authority is satisfied that the audited accounts of a microfinance service provider do not comply with the requirements of this Act or relevant regulations or contain information that may be misleading or are not published in the specified form, the Bank or Delegated Authority may require the service provider to-

- (a) amend the audited accounts to comply with the Act;
- (b) correct the misleading information;
- (c) re-publish the amended audited accounts; and
- (d) submit to the Bank or Delegated Authority further documents or information relating to any document or information.

(4) Where a microfinance service provider without reasonable cause, fails to comply with the provisions of this section,

the Bank or Delegated Authority shall take such measures as may be appropriate to ensure compliance.

Appointment  
of internal  
auditor

40.-(1) A microfinance service provider under Tier 1, Tier 2 or Tier 3 shall appoint an internal auditor who holds such qualifications and experience as prescribed in the relevant regulations.

(2) Without prejudice to sub section (1), a microfinance service provider under Tier 4 shall appoint a person responsible for internal control of financial affairs of the service provider in a manner provided for in the regulations.

Disclosure  
of financial  
statements

41.-(1) A microfinance service provider shall disclose its financial statements to the Bank, Delegated Authority and other stakeholders in a manner as provided for in the regulations.

(2) Without prejudice to sub section (1), a microfinance service provider under Tier 1, Tier 2 or Tier 3 shall display, throughout the year and in a conspicuous place in its place of business, a copy of its current audited financial statements, a copy of the balance sheet and profit and loss account in such form and manner as the Bank or Delegated Authority may prescribe.

(3) Notwithstanding the provisions of sub section (1), the Bank or Delegated Authority may prescribe the manner in which the microfinance service providers in Tier 4 shall disclose their financial information.

(4) Where a microfinance service provider without reasonable cause, fails to comply with the provisions of this section, the Bank or Delegated Authority shall take such measures as may be appropriate to ensure compliance.

Sharing of  
credit  
information

42.-(1) A microfinance service provider shall share credit information in a manner provided for in the regulations.

(2) For the purpose of this section, credit information shall include any information including personal information and credit history of a borrower or person such as paying habit, outstanding debts and tax obligations and any other business details.

(3) Notwithstanding sub sections (1) and (2), for the purpose of enabling sharing of credit information, every microfinance service provider shall submit credit information-

- (a) in the case of Tier 1, to the Bank; and
- (b) in the case of Tiers 2, 3 and 4 to the credit reference bureau.

(4) A microfinance service provider may access and use credit information through the credit reference bureau in a manner provided for in the regulations.

Cap 197

(5) Without prejudice to the provisions of this section, the regulation of credit reference information shall be conducted in accordance with the Bank of Tanzania Act.

(6) Where a microfinance service provider without reasonable cause, fails to comply with the provisions of this section, the Bank or Delegated Authority shall take such measures as may be appropriate to ensure compliance.

*(b) Supervision of Microfinance Service Providers*

Submission  
of periodic  
reports

43.-(1) A microfinance service provider shall submit to the Bank or Delegated Authority periodic reports of its microfinance business operations at such times and in such manner as may be prescribed in the regulations.

(2) Where a microfinance service provider without reasonable cause, fails to comply with the provisions of this section, the Bank or Delegated Authority shall take such measures as may be appropriate to ensure compliance.

Access to  
information

44.-(1) The Bank or Delegated Authority shall have access to information relating to activities of any microfinance service provider and may request, in writing that information be furnished within the time prescribed in the request.

(2) Where a microfinance service provider without reasonable cause, fails to comply with the provisions of this section, the Bank or Delegated Authority shall take such measures as may be appropriate to ensure compliance.

Confidentiality

45.-(1) Where the Bank or Delegated Authority has access to information obtained under this Act, the Bank or Delegated Authority shall treat such information confidential and shall not be disclosed to any person.

(2) Notwithstanding subsection (1), the Bank or Delegated Authority may disclose any information-

(a) to an authorized agency or person where such information is needed and is to be used for supervisory or oversight purposes and that its confidentiality will be maintained; or

- (b) in compliance with the law, an order of the court or with the express consent of the consumer concerned.

Inspection of  
microfinance  
business

46.-(1) The Bank or Delegated Authority may, at any time and in such a manner as provided for in the regulations, inspect business of any microfinance service provider under Tier 1, Tier 2 or Tier 3.

(2) It shall be the duty of microfinance service provider to produce before any officer authorised to make an inspection, all such books of account, records and other documents in custody or power of such person to furnish any statement or information relating to affairs of the microfinance service provider, as the inspecting authority may require within such time, as may be specified.

(3) Where the Bank or Delegated Authority, after considering the report of inspection under sub-section (1) is of the view that the affairs of any microfinance service provider are being conducted to the detriment of its consumers or contrary to this Act, it may after giving such opportunity to the microfinance service provider to make representation in connection with the report, take such action as it deems fit including-

- (a) restrict, suspend or prohibit the payment of dividends by the microfinance service provider;
- (b) suspend the licence for such period as the Bank or Delegated Authority may deem fit;
- (c) prohibit the conversion of any profits of the microfinance service provider into capital;
- (d) direct the microfinance service provider to take disciplinary action against any officer involved in such conduct;
- (e) direct the microfinance service provider to reconstitute its management;
- (f) order the microfinance service provider to submit to the Bank or Delegated Authority, within prescribed period-
  - (i) a capital restoration plan; or
  - (ii) a plan to resolve all deficiencies to the satisfaction of the Bank or Delegated Authority;
- (g) prohibit or suspend the microfinance service provider from awarding any bonuses, salary increments and other benefits of senior management or officers of the microfinance service provider;

- (h) impose restrictions on growth of assets or liabilities of a microfinance service provider as it deems fit;
- (i) order a microfinance service provider to do or take such other actions as the Bank or Delegated Authority may deem necessary.

(4) Any person who obstructs an officer of the Bank or Delegated Authority or any other authorized person in the exercise of power conferred upon him by this section, or who neglects or refuses to produce book, record or anything which the officer of the Bank or Delegated Authority or any other authorized person may request to be produced for his inspection commits an offence.

Monitoring  
of  
microfinance  
business  
under Tier 4

47.-(1) The Bank or Delegated Authority shall make or cause to be made a continuous monitoring of the business and affairs of the microfinance service providers under Tier 4 in accordance with the relevant regulations.

(2) Where upon monitoring made under sub section (1), the Bank or Delegated Authority finds out anomalies in the management of the business and affairs of the microfinance service provider, the Bank or Delegated Authority may-

- (a) advise or order the microfinance service provider to rectify the anomalies within the prescribed time; or
- (b) direct the microfinance service provider to take any other action for the purposes of ensuring compliance with the requirements of this Act;

(3) Where a microfinance service provider without reasonable cause, fails to comply with the order or directive issued under sub section (2), the Bank or Delegated Authority shall take such measures as may be appropriate to ensure compliance.

Compliance  
with  
Cap.423

48.-(1) A microfinance service provider shall, in compliance with the Anti-money Laundering Act, establish procedures for internal control for the purpose of identifying and reporting suspicious transactions.

(2) The Bank or Delegated Authority shall ensure each microfinance service provider operates in compliance with subsection (1).

PART VI  
MICROFINANCE CONSUMER PROTECTION



Consumer  
protection  
principles

49.-(1) A microfinance service providers shall comply with the principles of consumer protection as provided for in the applicable laws and regulations made under this Act.

(2) Subject to sub section (1), the principles of consumer protection prescribed in the regulations shall include-

- (a) terms and conditions of credit or related service that are transparent, fair, legible and protect the rights and interests of microfinance consumers or members;
- (b) complaints handling and dispute resolution mechanism;
- (c) full disclosure of relevant information on the products and services provided;
- (d) requirement for the vetting of the standard credit contracts or agreements; and
- (e) financial education to the consumers;
- (f) transparency on interest rates, fees or penalties; and
- (g) any other principle for the purpose of ensuring fair treatment of consumers.

(3) For the purposes of this section.

“consumer protection” includes principles intended to ensure transparency of the products and services of the microfinance service provider, fair treatment and safeguard of the interests and rights of consumers and fair complaints handling and dispute resolution mechanism.

(4) Notwithstanding the provisions of sub sections (2) and (3), any term or condition stipulated in a contract or any relevant document purporting to grant to a microfinance service provider authority to unilaterally introduce or modify interest rate or any other loan condition shall be null and void.

(5) Where a microfinance service provider without reasonable cause, fails to comply with the provisions of this section, the Bank or Delegated Authority shall take such measures as may be appropriate to ensure compliance.

Debts  
collection  
and recovery

50.-(1) A debt arising out of microfinance business activities under this Act shall be collected or recovered in a manner as may be prescribed in the regulations.

(2) Subject to subsection (1), the regulations issued under this section shall ensure that-

- (a) a debt collection measure is initiated by issuance of a sufficient written notice to the debtor;

(b) the attachment of a debtor's property or collateral security for purposes of sale to discharge a debt is applied as a last resort; and

(c) a reasonable period is prescribed as a notice to debtor prior to sale or disposal of a debtor's attached property.

(3) Where a microfinance service provider without reasonable cause, fails to comply with the provisions of this section, the Bank or Delegated Authority shall take such measures as may be appropriate to ensure compliance.

## PART VII OFFENCES AND PENALTIES

General  
penalty

51. A person who contravenes any provision of this Act where no specific penalty is provided commits an offence and upon conviction shall be liable to a fine of not less than five million shillings and not exceeding fifty million shillings or to imprisonment for a term of not less than three months and not exceeding five years or to both.

Compoundi-  
ng of  
offences

52.-(1) Notwithstanding the provision of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act, the Bank or Delegated Authority may, at any time prior to the commencement of the hearing by a court of competent jurisdiction, compound such offence and order such person to pay sum of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where an offence is compounded in accordance with subsection (1) and proceedings are brought against the offender for the same offence, it shall be a good defense for the offender to prove to the satisfaction of the court that the offence with which the offender is charged has been compounded under sub-section (1).

(3) Where any person is aggrieved by any order under subsection (1), he may within the prescribed period, appeal against such order to the High Court and the provisions of the Criminal Procedure Act shall apply to every such appeal as if it were an appeal against sentence passed by a district court in the exercise of its original jurisdiction.

Cap. 20

(4) Where a person fails to comply with the order issued under this section within the prescribed period, the Bank or Delegated Authority:

- (a) shall, in addition to the sum ordered, require the person to pay an interest at the rate prescribed in the regulations; and
- (b) may enforce the order in the same manner as a decree of a court for the payment of the amount stated in the order.

PART VIII  
GENERAL PROVISIONS

Register of  
Microfinan-  
ce service  
providers

53.-(1) The Bank or Delegated Authority shall cause to be kept and maintained a Register of all microfinance service providers licensed or registered in terms of this Act.

- (2) The Register shall contain-
  - (a) names and addresses of the microfinance service provider;
  - (b) particulars of licensing or registration including date of licensing or registration and number of certificate issued; and
  - (c) such other particulars as may be determined by the Bank.

(3) The Bank or Delegated Authority may make any alteration or correction in relation to any change in the contents of the Register regarding particulars of registered microfinance service provider.

Publication  
of  
microfinance  
service  
providers

54. The Bank shall, for the purpose of transparence and enhancement of public awareness, in each year or in such intervals as the Bank may determine, publish in the *Gazette* and in any newspaper of wide circulation, the names and full addresses of microfinance service providers-

- (a) licenced or registered to undertake microfinance business under this Act;
- (b) whose licences or certificates of registration have been revoked; and
- (c) which by any reason have ceased to operate.

Protection  
for acts done  
in good faith  
Cap. 16  
Cap. 76

55. Without prejudice to the provisions of section 284A of the Penal Code and section 3 of the Public Officers (Recovery of Debts) Act, no act or thing done or omitted to be done by any officer or agent of the Bank or Delegated Authority shall, if done or omitted to be done in good faith in execution or purported execution of his

duties under this Act shall subject that person to any action, liability or demand.

Transitional provisions

56. A person who, before the commencement of this Act, was operating a microfinance business shall within twelve months of commencement of this Act apply for a license or registration in accordance with this Act.

Local content

57. Where a microfinance service provider undertakes microfinance business, such microfinance service provider shall comply with applicable laws on local content including employment and training of Tanzanians.

Liability for acts of bodies of persons

58. Where an offence is committed under this Act by an association of persons, whether corporate or unincorporated and such association is found to have committed an offence with the knowledge or connivance of, or is attributable to any act or default on the part of any person or persons in apparent control of the association of persons, such person or persons shall be deemed to have committed the offence.

Regulations

59.-(1) The Bank may make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of sub section(1), the Bank may make regulations prescribing-

- (a) procedures of application and forms to be used for licensing of microfinance service providers under Tier 1, Tier 2 and Tier 3;
- (b) requirements and procedures for formation, registration, and operation of microfinance service providers under Tier 4;
- (c) matters in respect of which the activities of microfinance service providers under Tier 4 shall be monitored;
- (d) inspection matters including appointment of inspectors or authorized officers to conduct inspection;
- (e) various fees payable under this Act;
- (f) principles for consumer protection including dispute handling procedures and provision of financial education;
- (g) the manner in which financial education shall be provided by microfinance service providers;

- (h) payments to be made and conditions to be complied with for members or clients applying for loans;
  - (i) conditions and manner in which dividends or other forms of profit shall be distributed to the members or clients;
  - (j) appointment and qualifications of the internal auditor or authorized person of the microfinance service provider;
  - (k) permissible and prohibited activities to be undertaken by microfinance service providers;
  - (l) submission, collection and sharing of information including credit information;
  - (m) criteria and procedures for transformation of microfinance service providers;
  - (n) various administrative measures for contravention of provisions of this Act;
  - (o) conditions and manners for providing digital microfinance business; and
  - (p) any other matter that may be, or is required to be prescribed by the Bank under this Act.
- (3) The regulations made under this section shall be published in the *Gazette*.

PART IX  
CONSEQUENTIAL AMENDMENTS

*(a) Sub Part I*

AMENDMENT OF THE BANKING AND FINANCIAL  
INSTITUTIONS ACT  
(CAP.342)

Construction  
Cap 342

60.-(1) This sub part shall read as one with the Banking and Financial Institutions Act herein after referred to as the "principal Act".

Amendment  
of long title

61. The principal Act is amended in the long title by deleting the words "activities of credit co-operative societies and schemes"

Amendment  
of section 2

62. The principal Act is amended in section 2 by deleting sub sections (4), (5) and (6).

*(b) Sub Part II*

AMENDMENT OF BANK OF TANZANIA ACT  
(CAP.197)

Construction  
Cap 197                      63. This sub part shall be read as one with the Bank of  
Tanzania Act herein after referred to as the "principal Act".

Amendment  
of section 5                      64. The principal Act is amended in section 5, by adding at  
the end of subsection (1) the following words:  
  "and to regulate and supervise microfinance  
  business."

*(c) Sub Part III*

AMENDMENT OF THE COOPERATIVE SOCIETIES ACT  
(CAP.211)

Construction  
Cap 211                      65. This sub part shall be read as one with the Cooperative  
Societies Act herein after referred to as the "principal Act".

Amendment  
of section 2                      66.-(1) The principal Act is amended in section 2, by-  
(a) deleting the definition of the term "cooperative  
  financial institution" and substituting it wherever it  
  appears with the following-  
  "cooperative financial entity" means an entity  
  registered under the Act to provide  
  financial service to its members and  
  includes SACCOS and cooperative banks;  
(b) deleting the definition of the word "bank" and  
  substituting for it the following-  
  "bank" means cooperative bank registered under  
  the Act and which undertakes banking  
  business in terms of the Banking and  
  Financial Institutions Act or the  
  Microfinance Act."

Cap 342

Amendment  
of section  
141                      67. The principal Act is amended in section 141 by deleting  
subsection (3) and substituting for it the following:

Cap 211

"(3) Notwithstanding the provisions of sub  
sections (1) and (2), the regulations for saving and  
credit cooperative societies or in its acronym  
"SACCOS" shall be made in accordance with the  
Microfinance Act".

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OBJECTS AND REASONS  
—

The Bill proposes to enact the Microfinance Act with a view to Licence, Regulate, Monitor and Supervise microfinance business. It provides for different tiers of microfinance institutions and how they may transform from one tier to another. It also vests the Bank of Tanzania with the mandate to oversee the microfinance sub-sector, puts in place means for consumer protection and sharing of credit information through credit reference bureau.

The Bill is divided into Nine Parts.

Part I provides for preliminary provisions which include the title and commencement of the proposed Bill, application and interpretation clause.

Part II, among others, provides for the nature of microfinance business, classes (tiers) of microfinance service providers, governance of microfinance service providers, minimum capital requirements and criteria for transformation from one tier to another.

Part III provides for administrative provisions. It enumerates the powers and functions of the Bank of Tanzania to supervise and regulate the microfinance sub sector, delegation of such functions and powers to the Tanzania Cooperative Development Commission and the Local Government Authorities; and the role of the Minister to formulate policy and create an enabling policy environment and to make regulations to that effect.

Part IV is devoted to licensing and registration of microfinance service providers. It prohibits carrying out microfinance business without being licensed or registered. It puts in place procedures for application for a licence or registration of microfinance service providers including foreign owned microfinance service providers. It also provides for procedures of suspension, revocation and appeal.

Part V deals with management and supervision of microfinance service providers. It also caters for management of microfinance business, take over, permissible and prohibited activities and payment of dividends and interest. Furthermore, it also addresses preparation and audit of books of accounts, submission of periodic reports, inspection of microfinance business and the need to comply with Anti-Money Laundering Act, Cap 423.

Part VI is concerned with microfinance consumer protection. It puts in place consumer protection principles including vetting of standard contracts, full disclosure of relevant information on products and services provided, transparency on interest rates and other charges, methods for debt collection, recovery and attachment of debtors property.

Part VII provides for offences and penalties. It defines general penalties and compounding of offences.

Part VIII provides for general provisions. It deals with a register of microfinance service providers and the publication of names and addresses of microfinance service providers in the *Gazette* including those whose licenses or certificates have been revoked. It also provides for transitional provisions, local content matters including employment and training of Tanzanians and the powers of the Bank of Tanzania to make regulations under this Act.

Part IX provides for consequential amendments to various laws as a result of the enactment of the proposed Bill. It proposes to amend the long title and repeal some provisions of the Banking and Financial Institutions Act, Cap 342 of 2006 which cover saving and credit cooperative societies and schemes. The Bank of Tanzania Act, Cap.197 is also amended to empower the Bank to supervise and regulate microfinance business. It also proposes to amend the provisions of the Cooperative Societies Act, Cap 211 of 2013 to empower the Bank of Tanzania with the power to make regulations for saving and credit cooperative societies.

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MADHUMUNI NA SABABU



Muswada huu unapendekeza kutungwa kwa Sheria ya Huduma Ndogo za Fedha kwa lengo la kutoa leseni, kudhibiti, kufuatilia na kusimamia biashara ya Huduma Ndogo za Fedha. Muswada huu umeweka madaraja ya taasisi za huduma ndogo za fedha na utaratibu wa kuhama kutoka daraja moja hadi jingine. Aidha, Muswada huu unaipa mamlaka Benki Kuu ya Tanzania kusimamia sekta ndogo ya fedha, kuweka utaratibu wa kisheria wa kumlinda mlaji na utaratibu wa kushiriki katika mfumo wa ubadilishanaji wa taarifa za wakopaji.

Muswada umegawanyika katika Sehemu Tisa.

Sehemu ya Kwanza inahusu mambo ya awali ambayo yanajumuisha jina la Muswada, tarehe ya kuanza kutumika kwa Muswada, matumizi ya Muswada na tafsiri ya maneno yaliyotumika.

Sehemu ya Pili inahusu pamoja na mambo mengine biashara ya huduma ndogo za fedha, madaraja ya taasisi zinazotoa huduma ndogo ya fedha, uendeshaji wa shughuli za taasisi hizo, kiwango cha chini cha mtaji na vigezo vya taasisi hizo kuhama kutoka daraja moja kwenda daraja lingine.

Sehemu ya Tatu inahusu masuala ya utawala. Sehemu hii inaainisha mamlaka na majukumu na mamlaka ya Benki Kuu ya Tanzania katika kusimamia sekta ndogo ya fedha, na utaratibu wa Benki Kuu ya Tanzania kukaimisha mamlaka na majukumu na mamlaka yake kwa Tume ya Maendeleo ya Ushirika na Mamlaka za Serikali za Mitaa; pamoja na jukumu la Waziri mwenye dhamana kuandaa sera na kuweka mazingira wezeshi ya kisera na kuandaa kanuni husika.

Sehemu ya Nne inahusu masuala ya utoaji leseni na usajili wa watoa huduma ndogo za fedha. Sehemu hii pia inaweka katazo kwa mtu au taasisi yoyote kujihusisha na biashara ya huduma ndogo za fedha bila kuwa na leseni au usajili. Aidha, sehemu hii inaainisha utaratibu wa taasisi ya watoa huduma ndogo za fedha zikiwemo taasisi za nje kuomba leseni na kusajiliwa. Sehemu hii pia inaainisha utaratibu wa kusitisha au kufuta leseni na kukata rufaa.

Sehemu ya Tano inahusu uendeshaji na usimamizi wa taasisi za watoa huduma ndogo za fedha. Aidha, sehemu hiyo inaainisha masuala ya utoaji huduma ndogo za fedha, utaratibu wa kuziweka taasisi za watoa huduma ndogo za fedha chini ya usimamizi pale zinaposhindwa kujiendesha, shughuli zinazoruhusiwa na zisizoruhusiwa kufanywa na taasisi za watoa huduma ndogo za fedha na taratibu za ulipaji gawio na riba. Sehemu hii pia inaainisha taratibu za kuandaa na kukagua vitabu vya hesabu, utoaji taarifa, ukaguzi wa shughuli za utoaji huduma ndogo za fedha na kuzingatia Sheria ya Udhhibiti wa Fedha Haramu, Sura 423.

Sehemu ya Sita inaweka utaratibu wa kumlinda mlaji wa huduma ndogo za fedha. Sehemu hii pia inaweka misingi ya kumlinda mlaji, utaratibu wa kuhakiki masharti ya Mkataba, utoaji wa taarifa zote za bidhaa na huduma zinazotolewa, uwazi katika viwango vya riba na gharama nyingine, njia za kukusanya madeni, urejeshaji na ukamataji wa mali ya mdaiwa.

Sehemu ya Saba inahusu makosa na adhabu . Sehemu hii pia inaainisha adhabu za ujumla na uunganishaji wa makosa.

Sehemu ya Nane inahusu masharti ya Jumla. Sehemu hii inahusu rejesta ya usajili wa taasisi za watoa huduma ndogo za fedha na hitaji la kuchapishwa katika Gazeti la Serikali majina na anuani za taasisi zinazosajiliwa au kupewa leseni na ambazo usajili au leseni zake zimefutwa. Aidha, inaainisha masharti ya kuhama madaraja, ushirikishwaji wa wazawa hususan katika ajira na mafunzo kwa watanzania na mamlaka ya Benki kuu ya Tanzania katika kutunga kanuni chini ya Muswada.

Sehemu ya Tisa inafanya marekebisho ya sheria nyingine ili kuwezesha Sheria ya Huduma Ndogo ya Fedha kufanya kazi. Sehemu hii inapendekeza kufanyiwa marekebisho ya jina refu na vifungu vya Sheria ya Benki na Taasisi za Fedha, Sura 342 ya mwaka 2006 kuondoa masuala yanayohusu Vyama vya Ushirika wa Akiba na Mikopo (SACCOS). Sheria ya Benki Kuu, Sura ya 197 inapendekezwa kufanyiwa marekebisho ili kuipa mamlaka Benki Kuu kusimamia biashara ya huduma ndogo za fedha. Aidha, sehemu hii inapendekeza kufanya marekebisho ya Sheria ya Vyama vya Ushirika, Sura 211 ya mwaka 2013 ili kuipa mamlaka Benki Kuu ya Tanzania kutunga Kanuni za SACCOS.

Dodoma,  
22 Oktoba, 2018

PHILIP I. MPANGO  
*Waziri wa Fedha na Mipango*