

CENTRAL BANK OF SOMALIA

REGULATION NO, 002/2014/25 OF 2014

The Financial Institutions Law
(Law No, 130 of 22 April 2012)

The Financial Institutions (Money Transfer Business Registration) Regulations, 2014

IN EXERCISE of the powers contained in sections *forty nine* and *one hundred and twenty* of the Financial Institutions Law, the following Regulations are hereby made:

PART I
PRELIMINARY

1. These Regulations may be cited as the Financial Institutions (Money Transfer Business Registration) Regulations, 2014.
2. These Regulations shall apply to all persons owning or controlling money transfer business other than banks authorized to carry on banking business in Somalia.
3. These Regulations establish the form and manner for the compulsory registration of money transfer business and provide for matters connected with or incidental to registration.
4. In these Regulations, unless the context otherwise require:-

“*agent*” means any person who acts under the direction of or by contract with a registered or licensed money transfer business;

“*bank*” means a bank licensed to carry on banking business under the Financial Institutions Law and as defined by such Law;

“*Branch*” means any premises, other than its head office, at which a money transfer business transacts business in Somalia;

“*central bank*” means the Central Bank of Somalia;

“*Central Bank of Somalia Act*” means the Central Bank of Somalia Act, No130 of 2012;

“*Control*” in relation to a money transfer business means a situation where:

- a) One or more persons acting in consent, directly or indirectly, own, control or have the powers to vote five percent or more of any class of voting shares of the business;
- b) One or more persons acting in concert, control in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions, of the business; or

- c) any circumstances exist which indicate that one or more persons acting in concert, directly or indirectly, exercise a controlling influence over the management, policies or affairs of the business;

“*director*” includes any person occupying the position of director of an MTB by whatever name called and includes a person in accordance with whose directions or instructions the directors of a company are accustomed to act and an alternate or substitute director;

“*electronic-money*” or “*e-money*” means a record of funds or value available to a consumer stored on a payment device such as chip, prepaid cards, mobile phones or on computer systems as a non-traditional account with a banking or non-banking entity. E-Money products are further differentiated into network money, mobile-money, electronic purse, electronic wallet and network money.

“*electronic-wallet*” or “*electronic-purse*” means an e-money product, where the record of funds is stored on a particular device, typically in an integrated circuit chip on a card or mobile phone.

“*Financial Institutions Law*” means the Central Bank of Somalia Financial Institutions Law No. 130 of 22 April, 2012;

“*Money transfer business*” or “*hawala*” means the acceptance of cash, cheques and other payment instruments, [also including stored-value products], in one location, and payment [disbursement] of a corresponding sum in cash or other form to a beneficiary in another location. Transactions performed by such services can involve one or more intermediaries, participation into a system, and a final payment to a third party, and may include any new payment methods.

“*mobile money*” or “*m-money*” means an e-money product where the record of funds is stored on the mobile phone or a central computer system, and which can be drawn down through specific payment instructions to be issued from the bearers’ mobile phone;

“*Officer*”, in relation to a money transfer business, means a director or any other person, by whatever name or title he may be called or described, who carries out or is empowered to carry out functions relating to the overall direction, in Somalia, of that money transfer business or takes part in the general management thereof in Somalia;

“*payment account*” in relation to money transfer business means an e-money product where funds can be placed and withdrawn for remittance purposes including to and from third parties

“*Person*” means any individual, a personal representative, company, partnership, trust, fund, foundation or enterprise wherever located or incorporated;

“*Place of Business*” means each place or location in Somalia used by registered money transfer businesses for carrying on their services whether within a single building, at a single business address or otherwise;

“*Register*” means the Register of Money Transfer Businesses established under these regulations;

“*Registration*” means formal entry of a person owning or controlling money transfer business onto the Register by the central bank;

“*Registration Certificate*” means a certificate granted under these regulations acknowledging the existence of holder thereof as a registered money transfer business

PART II

AUTHORITY OF THE CENTRAL BANK OF SOMALIA

5. The central bank shall be the regulatory authority for the purposes of giving legal effect to these Regulations
6. Section 49(2) of The Financial Institutions Law gives responsibility to the central bank to “prescribe, by regulation, the form and manner for registering money transfer businesses”.
7. Section 120 of the Financial Institutions Law, gives powers to the central bank to “make such regulations as may be required from time to time for giving effect to the provisions” of the Financial Institutions Law
8. The central bank shall make available to the public part of, or all of such information contained in the Register so that the public may check which money transfer business is properly registered before using the service
9. The central bank may require money transfer businesses registered under these Regulations to furnish details of any of its money transfer business or provide returns in a format prescribed by the central bank

PART III

REGISTRATION

10. Every person who owns or controls a money transfer business shall register the business (whether or not the business is licensed as a money transfer business) with the central bank
11. Every relevant person shall apply to the central bank for registration using the First Schedule to these Regulations. Upon receipt of an application for registration the director of the licensing and supervision department shall, within fourteen days, review the application and make recommendations, on the application, to a committee of the central bank after ascertaining the formal content and completeness of information and document requirements under Regulation 15;
12. An application for registration shall be accompanied by a non-refundable application fee of US\$500 and the following information:
 - a. The name and location of the business;
 - b. The name and address of each person who: -
 - i. Owns or controls the business;
 - ii. Is a director or officer of the business; or
 - iii. Otherwise participates in the conduct of the affairs of the business;
 - c. The name and address of any bank at which the business maintains a transaction account;
 - d. An estimate of the volume of business in the previous two years of operation; and
 - e. A list of names and addresses of all persons authorized to act as Agents for such money transfer business

13. Upon request, a money transfer business must make its list of agents available to the central bank provided that every money transfer business will maintain the original list of agents and any revisions for a period of at least three years
14. The money transfer business must include the following information with respect to each agent on the list (including any revised list) of its agents referred to in Regulation 12(e):
 - a. The name of the agent, including any trade names or “doing business as” names;
 - b. The physical address of the agent and/or general description of area of location where street address is not available;
 - c. The telephone number of the agent;
 - d. The type of money transfer service or services the agent provides;
 - e. The name and address of any financial institution at which the agent maintains a transaction account;
 - f. The year in which the agent first become an agent of the money transfer business; and
 - g. The number of sub-branches or subagents the agent has
15. Every registered money transfer business shall indicate prominently next to their name at the location of business the words “Registered Money Transfer Business” or “Registered Hawala”
16. Money transfer business shall notify the central bank upon any change of:
 - a. any part of information submitted to the central bank during registration; and
 - b. address or cession of business within three months of such change or cession.
17. The following businesses are not required to register as money transfer businesses:
 - a. An *agent* for a registered money transfer business;
 - b. Banks and other regulated financial institutions under the financial institutions law that are authorized to provide money transfer business.
18. A branch of a money transfer business shall not be required to file its own registration form.

PART IV
REGISTER OF REGISTERED MONEY TRANSFER BUSINESSES

19. The central bank shall create and maintain a register, to be known as the Register of Registered Money Transfer Businesses, in which shall be entered the particulars of all registered money transfer businesses and the registration certificates they hold
20. The director of the licensing and supervision department shall have responsibility to administer the Register
21. The director of the licensing and supervision department shall enter into the Register the name, location of business and such other particulars as the central bank considers appropriate concerning each person registered, and shall remove from the Register the name and particulars of every person who is considered de-registered

PART V
TRANSITION TO LICENSING

22. Every money transfer business registered under these Regulations, it shall within twenty-four months submit an application for licensing to the central bank or cease to carry out such business

PART VI
PENALTIES FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS

23. In general – any person who:
- a. Files false information in connection with the registration of a money transfer business under these Regulations; or
 - b. Fails to register or license a money transfer business as required under these Regulations, commits an offence and shall be liable to sanctions as prescribed under section 49(4) of the Financial Institutions Law.

FIRST SCHEDULE
(Regulation 11)

MONEY TRANSFER BUSINESS REGISTRATION FORM

1. Legal or Company Name:

2. Trade or Business Name: If applicant will be operating under name other than its legal or company name

3. Other Trade Names: if applicant will be operating under other trade or business names.

4. Information about head office or main location of the business in Somalia

a. Business address of head office or location in Somalia.....

b. Business telephone number

c. Business e-mail address

d. Website address

5. Information about the businesses branches and agents. Provide addresses of braches, and names and addresses of all persons authorized to act as agents for such money transfer business. Provide separate sheet if needed

6. Information about controllers, board of directors and management. Provide information about every person who owns or controls, directly or indirectly or than 5 percent of the business entity or exercises significant influence over the management, policies or affairs of the money transfer business. Provide separate sheet if needed

7. Information about business activities to be engaged in. Select all applicable business activities by ticking the corresponding box:

Money transfer (domestic and international)

Currency exchange

- Mobile money/e-money¹
- Payment accounts

8. Approximate transaction number and volume in US dollars conducted in the last two years for each business activity

Money transfer (domestic and international)
Currency exchange
Mobile money/e-money
Payment accounts

9. Information about the financial institution/banks with which the business maintain accounts in Somalia/other countries

- a. Legal or company name
- b. Address
- c. Relationship manager
- d. Telephone number
- e. E-mail address

10. Designated points of contact. Information about person whom the Central Bank of Somalia can contact about this application. Attach letter of representation.

- a. Full name
- b. Position/title
- c. Address
- d. Telephone number
- e. E-mail address

11. Number of employees in Somalia:

12. Is the company a member of a trade association? Yes No If yes, please name it:

¹In the case of e-money, the entity/ies providing the payment account and/or transfer service need(s) to handle the registration process, e.g. if the transfer and account services are sub-contracted by a telecom company to a third party, then that third party contractor is the one in charge of the registration (and potentially eventually licensing) process.

13. I, the undersigned certify that and declare that to the best of my knowledge and belief all the facts stated in this application are complete and correct

14. Name and signature of the authorized officer:

MOGADISHU
...October 2014

BASHIR ISSA ALI
Governor
Central Bank of Somalia