

THE BANKING SERVICES ACT

Banking Services (Deposit Taking Institutions) (Agent Banking) Regulations 2016

Presentation to Parliament

by

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Mr. Speaker, the Banking Services Act permits a Deposit Taking Institution with the approval of the Supervisory Committee, to appoint an agent through which one or more of the banking services listed in that Act, will be offered.

The objective is to allow a widening of banking access channels beyond existing Deposit Taking Institutions' branch networks and electronic access channels to include the use of third-party-owned locations that will offer banking services alongside their own products and services. This will also facilitate the government's commitment to financial inclusion.

Mr. Speaker, it should be noted that this widening of the channels of delivery of banking services, to include non-bank

agents, creates an increased risk to the financial services sector which has to be met with adequate regulation of this area.

As such the Agent Banking Regulations seeks to prescribe the application process, eligibility requirements, responsibilities, obligations and other applicable considerations that will be applicable to agent banking operations.

Clauses in the Agent Banking Regulations

Mr. Speaker, some of the important clauses in the Agent Banking Regulations are as follows:

- **Regulation 2** – **the Interpretation clause which contains the definitions of critical terms** including agent, agent banking, appointing deposit taking institution and principal agent banking employee.
- **Regulation 3** – contains important provisions about the **application process for the approval required by a deposit taking institution** desirous of appointing an agent. Some of the key requirements in the application include

information about the proposed agent's nature of business, number of years in operation, the financial performance including the proposed agent's profitability. Other critical elements of the application include the physical and logical security of the business or place where the activity is conducted. The audited financial statements of the proposed agent and also evidence that the proposed agent is in good regulatory standing if regulated.

- **Regulation 6** – stipulates that once an agent is appointed, there is physical separation of agent banking operations from the primary commercial activity(ies) and all other business activities. It does not require separate locations but requires clear demarcation of banking business, identification of authorized personnel to conduct agent banking and separation of accounting records.
- **Regulation 7**- contains provisions to ensure proper record keeping of transactions conducted in relation to agent banking operations. The records are also to be retained in the form specified by the BOJ, the supervisor.

- **Regulation 8** – contains important provisions which outline that the appointing deposit taking institution is responsible for the management and the periodic monitoring of the agent’s activities. It is critical for the appointing deposit taking institution to ensure that proper safeguards are implemented, requisite training is designed and conducted, sensitization and compliance with the statutory requirements, anti-money laundering and combating the financing of terrorism obligations.
- **Regulation 9** – describes the activities which are not allowed through agents. Activities not allowed include levying fees or charge for banking services provided, granting loans or providing guarantees in the name of or on behalf of the DTI, opening bank accounts, utilizing the customers’ funds for purposes other than purpose requested by the customer.
- **Regulation 14** – contains provisions in which the appointing deposit taking institution has the duty to notify Supervisor of changes including its intention to discontinue agent banking services, the intention to make

any material change and any matter coming to its attention in relation to the its agent or agent banking operations which may jeopardize the services offered through the agent.

- Regulations 16 & 17 – **Regulation 16 outlines the responsibilities of the Supervisor**, i.e. the BOJ where it revokes the approval of the appointing deposit taking institution to offer agent banking services. The responsibilities of the Bank include issuing notice advising the public and requiring the deposit taking institution to publish a notice of revocation of the agent banking services. **Regulation 17 details the provisions for discontinuation of agent banking service.** The deposit taking institution has the responsibility to issue a notice to the public prior to the date of discontinuation. The approval for agent banking services shall also be surrendered to the Bank on the date of discontinuation or on another approved date.
- Regulation 18 – **gives the Supervisor, (the Central Bank) powers of enforcement** including issuing warnings and directions in the event that the Bank has reason to believe that there is a breach of the Regulation by the agent.

- **Regulations 19 & 20** – sets out the penalties for offences specified in the Second and Third Schedules respectively. Offences to which Regulation 20 apply are offences which liability to conviction may be discharged by payment of a fixed penalty.