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Draft notice of the Reserve Bank

FRAMEWORK FOR ACCESS TO AND EXERCISE OF  
ACTIVITY OF BANKING AGENT

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Bank of Mozambique

Regulation and Licensing Department

Notice of the Governor of the Bank of Mozambique  

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FRAMEWORK FOR ACCESS TO AND EXERCISE OF  
ACTIVITY OF BANKING AGENT

Maputo, October 2014

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NOTICE Nr. ..../GBM/2014  
Maputo, .... xxxx 2014

SUBJECT: Framework for Access to and Exercise of the Activity of Banking Agent

Given the need to establish rules for the provision of services by banking agents, in order for financial services to better cover the population, especially in rural areas, the Bank of Mozambique, exercising the powers conferred to it by Nr. 4 of article 10 of the Regulations for Credit Institutions and Finance Companies, approved by Decree Nr. 56/2004, of 10 December, with the amendments introduced by Decree Nr. 30/2014, of 5 June, determines:

CHAPTER I  
GENERAL  
PROVISIONS

Article 1  
Objective

This Notice establishes the terms and conditions under which banks and microbanks can extend their activity by contracting banking agents within the national territory.

Article  
2  
Scope of Application

This Notice applies to banks and microbanks wishing to extend their activity through the contracting of banking agents within the national territory.

Article  
3  
Definitions

For the purposes of this Notice, the following meanings are established:

- a) Banking agent: entity executing financial activity on behalf of and representing banks and microbanks pursuant to this Notice;
- b) Bank: a credit institution whose objective is carrying out banking activities as provided for in paragraphs a) to m) of Nr. 1 of article 4 of Law Nr. 15/99, of 1 November, with the amendments introduced by Law Nr. 9/2004, of 21 July – the Law on Credit Institutions and Financial Companies, approved by Decree Nr. 56/2004;
- c) Type 4 Credit: credit granted by a credit institution, which has been repaid within the past three months;
- d) Type 5 Credit: credit granted by a credit institution that has been written off by the lending institution;
- e) Contracting institution: a bank or microbank type credit institution; and
- f) Microbank: a credit institution whose objective is carrying out restricted banking activities, in particular operating in microfinance, as defined in applicable legislation as

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accepted by paragraph *j*) of Nr. 2 of article 2 of Law Nr. 15/99, of 1 November, with the amendments introduced by Law Nr. 9/2004, of 21 July – the Law on Credit Institutions and Finance Companies, approved by Decree Nr. 56/2004.

## CHAPTER II

### ACCESS TO AND GENERAL CONDITIONS OF THE ACTIVITY OF BANKING AGENTS

#### Article 4 Responsibility

- I. The banking agent acts on behalf of, and under the guidance of the contracting institution, which is responsible for all its acts.
2. The contracting institution shall ensure the integrity, reliability, security and confidentiality of the transaction performed, as well as compliance with the standards applicable to the activities carried out by the banking agent.

#### Article 5 Eligible entities

1. The contracting institution may hire public or private natural or legal persons, to conduct the business of banking agent, including:
  - a) Commercial entrepreneurs, individuals;
  - b) Private limited companies;
  - c) Registration and notary services;
  - d) Educational institutions;
  - e) Public companies;
  - f) Fixed and mobile phone operators.
  - g) Operators in the postal sector;
  - h) Other entities, as may be authorized from time to time by the Bank of Mozambique.
2. Credit cooperatives and electronic money institutions, may also be eligible as banking agents under the following conditions:
  - a) Waiver of the conditions established in paragraphs *b*) and *d*) of Nr. 1 and paragraphs *a*), *b*), *c*), *e*), *f*) and *h*) of Nr. 3 of article 9 of this Notice; and
  - b) Any entity under the responsibility or supervision of a public body, which shall obtain the relevant authorization prior to being contracted,
3. The following are not eligible as banking agents:
  - a) Entities involved in illegal or prohibited activities, as well as activities related to games of chance;
  - b) Entities whose administrative, or equivalent, body includes members covered by the provision of Nr. 2 of article 9 of this Notice;
  - c) Entities whose sole or main purpose is to provide banking agent services or whose

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- ownership is controlled by the contracting institution or by a common entity; and
- d) Entities whose ownership is directly or indirectly controlled by an administrator of any company belonging to the same group as the contracting institution.

#### Article 6 Activities of banking agents

1. Banking agents may only carry out perform the following activities:
  - a) Deposit and withdrawal of cash within the limits established by the contracting institution;
  - b) Payments;
  - c) Bank Transfers;
  - d) Disbursement and receipt of reimbursements of credit approved by the contracting institution;
  - e) Receipts and payments of any kind, and other activities related to execution of service provision contracts entered into by the contracting institution with third parties;
  - f) Provision of bank account balances;
  - g) Provision of mini statements of account;
  - h) Receipt and forwarding of proposals for the opening and closing of deposit accounts in contracting institutions;
  - i) Receipt and forwarding of proposals for credit operations of contracting institutions;
  - j) Receipt and forwarding of requests for issuance and substitution of debit and pre-paid cards; and
  - k) Other activities such as may be authorized from time to time by the Bank of Mozambique
2. The limits referred to in paragraph *a)* of the preceding number shall be established taking into account the risk profile associated with the volume of transactions and the security conditions of the banking agent.
3. The entities listed in paragraphs *c)*, *d)*, *e)*, *f)* and *g)* of article 5 can only perform the activities listed in paragraphs *b)*, *i)*, *j)* and *k)* of Nr. 1 of this article.

#### Article 7 Technology in use

The contracting institution shall ensure that the transactions performed by banking agents occur in real time and are carried out within the establishment of the banking agent.

### **CHAPTER III** **CONTRACTING OF BANKING AGENTS**

#### **Article 8** **Norms governing the use of banking agents**

The contracting institution shall ensure that the financial activities carried out through banking agents comply with the internal rules and policies adopted by the administrative, or

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equivalent, body of the contracting institution, and include as a minimum procedures concerning:

- a) Mandatory identification and verification of banking agents;
- b) Service provision through banking agents as well as the description of technologies to be used;
- c) Training to be provided before banking agents begin their activities, covering in particular matters such as:
  - i. Operations inherent in the activities referred to in article 6;
  - ii. Bank secrecy;
  - iii. Fraud detection mechanisms, including the identification of counterfeit and false notes and coins, as well as procedures to prevent and combat money laundering and financing of terrorism;
  - iv. Carrying out operations, diagnoses and resolving failures in the processing of operations
  - v. Treatment of complaints.

#### Article 9

##### Assessment criteria for banking agents

1. The contracting institution shall, prior to contracting, assess the entity to be contracted as a banking agent in order to ensure compliance with, at least, the following conditions:
  - a) Currently carrying out an economic activity and having a stable establishment;
  - b) Not having, in the last six months, type 4 or 5 credit, and not being registered as having issued bounced checks;
  - c) Having appropriate physical premises and human resources capable to ensure secure and efficient service provision; and
  - d) Owners, managers and partners, members of corporate bodies of entities eligible to operate as banking agents shall be of good repute.
2. Among other relevant circumstances, and for the purposes of paragraph *d)* of the preceding number, it is considered a sign of impropriety that the person in question has been:
  - a) Declared by national or foreign judgment bankrupt or insolvent or responsible for bankruptcy or insolvency of a company under his/her control, or of which he/she has been administrator, director or manager;
  - b) Convicted in this country or abroad, for willful bankruptcy, bankruptcy due to negligence, falsification, theft, robbery, fraud by defrauding,, extortion, abuse of confidence, usury, currency fraud and issuance of bounced checks, drug trafficking, money laundering and other crimes of an economic nature;
  - c) Administrator, director or manager of an enterprise, in the country or abroad, whose bankruptcy or insolvency has been prevented, suspended or avoided by recuperation or other preventive or suspension measures, provided he/she is recognized as being responsible for that situation by the competent authorities;
  - d) Convicted, in this country or abroad, for infringements of legal or regulatory rules governing the activities of credit institutions and finance companies, insurance activities and the securities market, when the severity or recurrence of these infringements so warrants.
3. The entity wishing to be hired as banking agent shall provide the contracting institution with at least the following information:

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- a) Name or company name;
- b) Registration certificate of legal entity or other such document;
- c) Valid permit or license for carrying out activities or similar document issued by a competent authority;
- d) Audited financial statements of previous financial year, as applicable;
- e) Certificate of no impediment, issued by the Directorate of the respective area or tax department;
- f) Criminal record check certificate of the persons listed in paragraph *d)* of Nr. 1 of this article;
- g) Address and contact details;
- h) Proof of possession of financial resources or funds that guarantee the activities of banking agent, in particular cash deposits and withdrawals, as applicable.

#### **Article 10** **Minimum contract clauses**

1. Carrying out the activities specified in article 6 of this Notice by the banking agents shall be by way of a written contract entered into with the contracting institution.
2. The contract referred to in the preceding number shall contain at least the following clauses:
  - a) The rights and obligations of the parties;
  - b) The remuneration, including the respective pricing conditions and the activities to be performed by the banking agent;
  - c) The bank account number of the banking agent with the contracting institution used for payment of remuneration for the services provided;
  - d) The indication that service provision by banking agents is subject to the rules of this Notice and other legislation applicable to contracting institutions, as well as reference to the fact that the Bank of Mozambique shall be given full and timely access to internal control systems, documents, reports, files and employees of banking agents, whenever necessary;
  - e) The indication that the owner, manager, administrator, partner or other relevant party of the banking agent shall not execute management functions, make management decisions, or act or appear to act in a similar manner to that of a manager or employee of the contracting institution;
  - f) The obligation of the agent to ensure the protection of relevant records, data, documents or processes of operations performed, while establishing to this end the duty to transfer these to the contracting institution at previously specified regular intervals;
  - g) The indication that all information and data, collected by banking agents, about the services provided and concerning clients and the contracting institution, is the property of the contracting institution and that the latter shall be supplied with copies of the documentation it deems necessary;
  - h) The obligation to proceed to financially settle accounts between the contracting institution and the banking agent at least every two working days;
  - i) The specification that banking agents and their employees are bound by the secrecy established by law with respect to the operations realized with customers on behalf of the contracting institution;
  - j) The conditions governing the amendment of the terms of service provision, the circumstances comprising non-compliance and those concerning termination of the contract;
  - k) Appropriate limits to the amount, in cash, to be kept by banking agents as well as the limits of payments and receipts per customer or user;
  - l) The obligation, when assistance is provided in financial operations concerning goods



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- and services provided by the banking agent, to present clients the quotes of the contracting institutions with which a service provision contract has been signed.
- m) The obligation of the banking agent not to charge any fees, commissions or charges related to the exercise of activities that have not been previously agreed upon with the contracting institution and that are foreseen in the scheme of commissions and charges approved by the Bank of Mozambique.

#### **Article 11**

##### **Non exclusivity of the contract**

1. The contract between the contracting institution and the banking agent shall not be exclusive.
2. A banking agent can provide services to various contracting institution provided that the service provision contracts are separate.
3. In case a banking agent is contracted by several contracting institution, these shall ensure that the agent demonstrates the capacity to manage transactions of different institutions.

#### **Article 12**

##### **Termination of the contract**

1. The banking agent contract can be terminated by the agent's initiative or that of the contracting institution.
2. The banking agent contract shall be terminated whenever any of the following circumstances or situations occur:
  - a) Cessation of the main activity;
  - b) Dissolution of the entity;
  - c) Death of the entrepreneur, individual, owner of the institution contracted as banking agent;
  - d) Conviction of the entrepreneur, or individual in this country or abroad, for crimes of an economic nature, as provided for in paragraph *b)* of Nr. 2 of article 9 of this Notice;
  - e) Change or closure of the establishment, without prior written consent of the contracting institution.
3. The Bank of Mozambique can terminate the contract when the banking agent violates the laws and regulations governing the activities of credit institutions and finance companies and consumer rights in general, and when the agent does not observe the banking provisions of the contracting institution, thus endangering the interests of depositors and other creditors
4. Whenever a banking agent contract has been terminated, the contracting institution shall publish this fact in the location where the activities have been carried out, in such a way that allows the public to be aware of the cessation of the banking agent's activities.

#### **Article 13**

##### **Duty to provide information**

1. The contracting institution shall provide information to the Bank of Mozambique concerning the activity of banking agents, in accordance with conditions and periodicity to be defined.
2. The contracting institution shall make available to the public, in all its agencies, on its internet pages and in the establishments of banking agents, in a clearly visible, directly accessible and easily identifiable place:
  - a) An update of its banking agents, including name, address and telephone number or

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- some other means of communication;
  - b) The products and services provided by banking agents; and
  - c) The contact of the contracting institution's free helpdesk, in a visible place inside the establishment, for the purpose of complaints, public clarification or verification of the agent's authenticity.
3. In addition the contracting institution shall:
- a) Be aware of anticipated changes to or closure of the establishment of the banking agent, at least 30 days in advance; and
  - b) Ensure that the banking agent informs the public about the change to, or closure of its establishment, at least 15 days from the date of its verification.

#### Article 14 Identification of banking agents

The contracting institution shall ensure that its banking agents disclose, in publicly visible place, the name or company followed by the designation "agent of (insert name of contracting institution)", in Portuguese.

### CHAPTER V

#### FINAL PROVISIONS

##### Article 15 Penalty system

Violation of the provisions of this Notice is a punishable offence pursuant to the Law on Credit Institutions and Finance Companies.

##### Article 16 Clarification of doubts

Doubts arising in interpreting and applying this Notice are to be submitted to the Regulation and Licensing Department of the Bank of Mozambique.

##### Article 17 Entry into force

This Notice shall enter into force on the date of publication.