GOVERNMENT NOTICE NO. 45

FINANCIAL SERVICES ACT

(CAP. 44:05)

FINANCIAL SERVICES (DISCLOSURE REQUIREMENTS FOR SAVINGS PRODUCTS AND SERVICES) DIRECTIVE, 2018

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IN EXERCISE of the powers conferred by section 34 (2) of the Financial Services Act, I, DR. DALITSO KABAMBE, Registrar of Financial Institutions, make the following Directive—

PART I—PRELIMINARY

Short Title

1. This Directive may be cited as the Financial Services (Disclosure Requirements for Savings Products and Services) Directive, 2018.

Application

2. This Directive applies to a bank, a primary SACCO, a deposit taking microfinance institution and a building society.

Interpretation

3.—(1) In this Directive, unless the context otherwise requires—

"Board" means the highest body of authority in a financial institution responsible for strategically guiding the institution, effectively monitoring management and properly accounting to shareholders;

"financial consumer" in relation to a financial service, means—

(*a*) (i) a natural person, not acting in the course of business, or

(ii) a sole trader, partnership, trust club or charity (not being a body corporate), with an annual turnover in its previous financial year of MK250, 000,000 or less; or

(iii) an incorporated body that—

(I) had an annual turnover in its previous financial year of MK250, 000,000 or less, and

(II) is not a body corporate that is a member of a group of companies with a combined annual turnover (in the previous financial year of the group of companies), of greater than MK250, 000,000 that—

(A) is a customer of a financial institution; or

(B) is a person or body to whom a financial institution has offered to provide a financial product or service, or

(C) has sought the provision of a financial product or service;

(*b*) an actual or potential beneficiary of a financial product or service;

"key fact statement" means an outline of the key features, terms and conditions of a financial product or service as part of a contract;

"savings" means—

(*a*) deposit accounts in a bank;

(*b*) deposit accounts in a deposit taking microfinance institution;

(*c*) member savings accounts in a primary SACCO; or

(*d*) deposit accounts in a Building Society.

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(2) Any term used in this Directive, and which has been defined in the Act, the Banking Act, Microfinance Act, Financial Cooperatives Act, has the meaning ascribed to that term under the Act, Banking Act, Microfinance Act, and Financial Cooperatives Act.

PART II—OBJECTIVES

Objectives

4. The objectives of this Directive are to—

(*a*) set minimum disclosure requirements for a savings product and service;

(*b*) ensure that a financial consumer is provided with full, accurate and timely information to evaluate whether and to what extent a saving product and service is appropriate;

(*c*) promote comparability of savings product and service by a financial consumer; and

(*d*) promote fair treatment of a financial consumer.

PART III—BOARD AND MANAGEMENT OVERSIGHT

Board and management oversight

5.—(1) The Board and management of a financial institution shall be responsible for adherence and compliance with the requirements of this Directive.

(2) A financial institution shall have a written disclosure policy on a savings product and service approved by the Board.

(3) The Board shall ensure that—

(*a*) management is implementing the disclosure policy; and

(*b*) there is full, timely and accurate disclosure of all relevant information on a savings product and service in line with the requirements of this Directive.

PART IV—MINIMUM DISCLOSURE REQUIREMENTS

General requirements

6.—(1) A financial institution shall disclose to a financial consumer all information related to a savings product and service necessary to enable a financial consumer make an informed decision.

(2) A financial institution shall disclose to the financial consumer before entering into a contract with a financial consumer the benefits, risks, terms, conditions and costs of a savings product and service.

(3) A financial institution shall disclose information that is clear, accurate and not misleading to a financial consumer.

No cost for information

7. A financial institution shall provide information prescribed in this Directive at no cost, before a financial consumer buys a savings product and service.

Information about a financial institution

8. A financial institution shall disclose in a contract—

(*a*) its official trade name and address of its principal office to the financial consumer prior to granting a savings product and service; and

(*b*) its regulated status and, where required by the financial consumer, contact details of the Registrar.

Information about a savings product and service

9. The disclosed information about a savings product and service shall be contained in a key fact statement which shall, where applicable, include—

(*a*) clear, accurate and complete contractual terms and conditions including the interest rate payable on the product or service;

(*b*) type of savings product and service;

(*c*) minimum book balance;

(*d*) service fees to be paid;

(*e*) the duration of the savings product and service and maturity date;

(*f*) penalties, for termination of contract prior to maturity of a savings product and service;

(*g*) variations to the savings product and service and its terms and conditions;

(*h*) conditions for access to savings;

(*i*) the withdrawal procedure including all documentation required;

(*j*) the frequency of calculating interest on the savings product or service;

(*k*) savings withdrawal options available to a financial consumer;

(*l*) penalties in case of non-compliance with other contract terms;

(*m*) complaints handling mechanisms; and

(*n*) any other information which the Registrar may determine from time to time.

PART V—FORM AND TIME OF DISCLOSURE

Disclosure form

10. The disclosures in paragraph 9 shall be in the prescribed format in the Schedule hereto and communicated to a financial consumer before, during and after signing an agreement—

(*a*) in English or vernacular language which is easy to read and understand;

(*b*) in written form, and accessible to the financial consumer; and

(*c*) the information must be—

(i) in legible font size of not less than 12;

(ii) available to financial consumers through numerous channels, such as in branches, pension fund offices and online platforms;

(iii) provided on paper or electronic format in graphs to elaborate practical communication taking into account that participants have differing levels of knowledge and information:

provided that where an insurer or an insurance intermediary opts to use electronic form of communication, the needs and capabilities of the financial consumer must be properly assessed where appropriate; and

(iv) simplified through consumer testing, especially with the needs of vulnerable client groups in mind.

PART VIII—ENFORCEMENT

Monetary penalties

11.—(1) The Registrar shall impose the following monetary penalties for violations of this Directive—

(*a*) a fine not exceeding K50,000,000 if the violation is committed by a financial institution;

(*b*) a fine not exceeding K10,000,000 if the violation is committed by individuals who are members of the Board or management; and

(*c*) in addition, a penalty of K50,000 may be imposed on the institution or the individual for each subsequent day for which the violation continues after being notified as stipulated.

(2) The financial institution or individual shall pay the penalty in subparagraph (1) through a bank certified cheque or electronic transfer payable to the Reserve Bank of Malawi within 10 working days after being notified of the violation.

Administrative penalties

12. In addition to the monetary penalties imposed in paragraph 11(1), the Registrar may impose directions, and administrative penalties as provided for under the Act and other financial services laws.

SCHEDULE (para. 10)

KEY FACTS STATEMENT FOR SAVINGS PRODUCTS AND SERVICES

(Application No.:.....)

I.—PARTIES CONCERNED

(1) Financial institution's name:.....

(2) Contact information (address, telephone., e-mail):.....

.....

.....

(3) The information provided remains valid until:.....

(4) [Full legal name of the financial institution] is authorized and supervised by the Registrar of Financial Institutions (see more information below):.....

.....

(5) Agent / Intermediary details: (name, address, telephone., e-mail):.....

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.....

(6) Applicant's name:.....

(7) Contact information (address, telephone., e-mail):.....

.....

.....

II. KEY TERMS—Review carefully before buying a policy

A.—INVESTMENT DETAILS

1. Type of saving product and service:.....
2. Service fees payable:.....
3. penalties for termination of contract:.....

B.—COST OF INVESTMENT SERVICE

4. Minimum book balance payable (monthly/quarterly/lump sum):.....
5. Other fees and charges (*Administration Costs*):.....
6. Benefits associated with the saving product and service:.....

.....

C.—INVESTMENT SCHEDULE

7. Duration:.....

8. Maturity Date:.....

9. Period to receive evidence of the contract.....

10. Exclusion:.....

11. withdrawal options available:.....

.....

12. penalties in case of non-compliance with other contract terms:

.....

III.—STATUTORY RIGHTS

13. withdrawal procedures: Your savings can be withdrawn ..... days from the date of deposit.

14. Customer Recourse: Complaints or comments? Please call [.....], email [.....] or write to [.....].

15. Redress Mechanism: In case of a dispute you may lodge a complaint with the Registrar or file a lawsuit. To contact the Registrar, call: 01 820299 or Toll Free: 80008444, email: complaints-handling@rbm.mw, mail: The Consumer Protection Unit, Reserve Bank of Malawi, P O Box 565, Blantyre], or visit: http://www.rbm.mw.

16. Right to Savings Statement: You have the right to obtain a statement of the savings product and service free of any charge.

22. Termination of saving product and service: You may terminate the policy in the following manner:.....

.....

CERTIFIED CORRECT:

....

Signature of financial institution representative *Date*

I ACKNOWLEDGE THAT I RECEIVE AND UNDERSTAND THIS STATEMENT PRIOR TO PURCHASE OF THE POLICY/ANNUITY:

....

Signature of beneficiary/consumer *Date*

....

Signature of broker or agent (*if applicable*) *Date*

Dated this 29th day of June 2018

D. KABAMBE, PhD

(FILE NO. FIN/PFSPD/03/04) *Registrar of Financial Institutions*