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GAZETTE NOTICE NO. 150

EXCHANGE CONTROL ACT

CAP. 113

CONDITIONS FOR ISSUANCE OF FOREIGN EXCHANGE

BUREAU AUTHORIZATION CERTIFICATE

PURSUANT TO Legal Notice No. 1 of 1995 it is notified for the information of the general public that the following conditions shall apply with respect to the authorization and operations of Foreign Exchange Bureaus.

1.0 Definition

- 1.1 These Conditions may be cited as the Foreign Exchange Bureau Authorization Conditions.
- 1.2 A Foreign Exchange Bureau is a business enterprise engaged in the carrying on of the business of buying and selling foreign currency.
- 1.3 A Foreign Exchange Bureau (hereinafter referred to as "Forex Bureau") will be a legally registered business entity authorised by the Central Bank of Kenya to engage in the sale and purchase of foreign exchange.
- 1.4 A Forex Bureau may only carry on the business of buying and selling foreign exchange subject to the stipulations of these Conditions.

2.0 Authorisation

- 2.1 No person shall operate a Forex Bureau without the authority of the Central Bank of Kenya in accordance with these Conditions.
- 2.2 A Forex Bureau which fails to commence operations within Six months from the date of issue of the Authorization Certificate shall have its authorization revoked.

3.0 Qualifications to Operate a Forex Bureau

- 3.1 A person who satisfies the requirements set by the Central Bank of Kenya may apply to the Central Bank for authorization to carry on the business of a Forex Bureau in the specified forms from the Bank.
- 3.2 In processing the applications the Central Bank will give preference to those wishing to locate the Bureau business at Migration Centres, Tourist Centres, Conference Centres and very busy trading centres or localities throughout Kenya.

4.0 Terms for Granting Authorisation

An applicant must satisfy the following terms:-

- 4.1 shall be a registered company holding a valid certificate of registration issued under the Companies Act as a limited liability company with the main object of carrying on the business of a Forex Bureau.
- 4.2 shall maintain at all times a minimum paid-up capital of US\$ 20,000 or its equivalent in Kenya Shillings and to be built-up to US\$ 30,000 or its equivalent in Kenya Shillings within six months of the granting of the certificate of authorisation. The requisite capital shall be fully paid and freely available to support the operations of the Bureaux.
- 4.3 shall have a fixed and secure place of business accessible to the public and which in the opinion of Central Bank of Kenya is suitable in all respects for business of a Forex Bureau.

5.0 Details Required

Every application for Authorization Certificate shall be on Form No. 1 accompanied by copies of the company's Certificate of Registration and the Memorandum and Articles of Association.

The application shall specify:-

- 5.1 the name, address, bankers and specimen signature of each director of the Forex Bureau.
- 5.2 the name of the Forex Bureau as registered.

- 5.3 the name of the bankers of the Forex Bureau.
- 5.4 the proposed place of business of the Forex Bureau.
- 5.5 Every successful applicant shall be issued with a Authorization Certificate upon payment of a registration fee of Kshs. 50,000/=. Every additional branch if approved will be subject to additional fee of Kshs. 25,000/=.

6.0 Effect and Duration of Authorization Certificate

- 6.1 A Forex Bureau Authorization Certificate shall not be transferable or assignable and no person other than a person approved by the Central Bank shall manage a Forex Bureau.
- 6.2 A Forex Bureau Authorization Certificate shall be valid for a period of 12 months from the date of issue and may be reviewed for similar periods.
- 6.3 The Central Bank of Kenya may upon receiving an application on the specified form, to renew a Forex Bureau Authorization Certificate:-
 - 6.3.1 if satisfied that the Forex Bureau is being operated in conformity with the provisions of these conditions and guidelines.
 - 6.3.2 on payment of Forex Bureau Authorization Certificate fee of Kshs. 50,000/= or renewal fee of Kshs. 25,000/= issue or renew Authorization Certificate as the case may be.

7.0 Particulars of Managers of Forex Bureau

- 7.1 The proprietor of a Forex Bureau shall on application for Authorization Certificate provide the Central Bank of Kenya with the names, addresses and designations of members of the management team of the Forex Bureau. Managers of these institutions should be people of high integrity and credibility who have not been involved in any bank frauds, embezzlement or failures.

Where a change is proposed in the names of Directors, management team, the Forex Bureau, bankers or location of the Bureau, the proprietor shall apply in writing to the Central Bank of Kenya for the approval of such changes.

8.0 Security for fulfilment of obligations

A Forex Bureau shall deposit a sum of US\$ 7,600 in a non-interest bearing account for that Bureau with the Central Bank of Kenya as security for the proper fulfilment of its obligations under Forex Bureau Authorization Certificate. The deposit shall be subject to forfeiture in the event of any material breach of the conditions of issue of a Forex Bureau Authorization Certificate.

9.0 Opening of Foreign Exchange Account

A Forex Bureau shall open and maintain a specially designated "Forex Bureau Account" with a local commercial bank. Such account shall be solely used for

day to day operations of the Bureau and shall at all times have a minimum credit of US\$ 2,500. The Bank with which the foreign exchange account is maintained shall ensure that the account is at all times maintained at a minimum balance of US\$ 2,500.

10.0 Revocation of Forex Bureau Authorization Certificate

Where a Forex Bureau is found to be in material breach of any of the conditions of issue of a Forex Bureau Authorization Certificate the Central Bank of Kenya shall have the right to revoke the Authorization Certificate. The Forex Bureau shall be given adequate opportunity to answer the charges against it and thereafter the Central Bank's decision shall be final.

11.0 Mode of operation

A Forex Bureau shall process foreign exchange requests made by their customers and make sure that they conform with the conditions issued by the Central Bank.

12.0 Payments to Non-residents and Transfer of Funds abroad

12.1 All payments by residents to non-residents and all transfer of funds by residents to or from abroad shall be made through the Forex Bureau's commercial bank where its Foreign Currency Account is domiciled.

12.2 International organizations and diplomatic missions shall not be eligible to transfer any funds to or from Kenya through the Forex Bureaux but through their established normal banking channels. **SAVE THAT** individual diplomatic personnel or members of international organizations may subject to these conditions buy or sell Foreign Currency through the Bureaux.

13.0 Currency of Transactions and Dealing

13.1 With exception of Forex Bureaux situated in border areas all the other Forex Bureaux shall deal only in internationally convertible currencies. The Bureaux may engage in:

- (a) buying and selling foreign exchange cash or travellers' cheques;
- (b) buying personal cheques, bank drafts and other transfers but shall not engage in selling personal cheques, bank drafts or other transfers.

13.2 Forex Bureaux may buy and sell any currencies against Kenya Shillings.

13.3 The Central Bank of Kenya may from time to time direct that some or any currency shall not be used to buy or sell Specified Currencies.

13.4 "Specified Currencies" means the specified currencies as specified by the Minister in Legal Notice No. 20 of 1983.

14.0 Counterfeit Notes and Forfeiture

- 14.1 Forex Bureaux must have the necessary equipment to detect counterfeit notes.
- 14.2 Counterfeit or forged notes presented by customers shall be seized, the customer issued with evidencing receipt and the counterfeit note(s) notified and delivered to the Central Bank of Kenya. Under no circumstances should the forged note(s) be returned to the presenter or customer.

15.0 Determination of Exchange Rates and Transactions

- 15.1 A Forex Bureau shall be free to competitively set exchange rates in all transactions with customers and between themselves and to deal exclusively in spot transactions and in only specific instruments specified in their Authorization Certificate.

16.0 Display of Exchange Rates and Dealing

- 16.1 For every sale or purchase of foreign currency, a Forex Bureau shall issue a receipt in the specified Form prescribed in Form No. 2.
- 16.2 A Forex Bureau shall display foreign exchange buying and selling rates conspicuously in its premises. The rates displayed shall be the net of any commission. It shall further display prominently in its premises a notice informing its customers that they are entitled to a receipt on any sale or purchase made by them.
- 16.3 The Quoted Spot Exchange Rates must be submitted to the Central Bank of Kenya on a daily basis by 3.00 p.m.

17.0 Prohibition of dealing other than for Spot Transactions

- 17.1 A Forex Bureau shall only engage in spot transactions and not in transaction involving forward cover. It shall not refuse to sell foreign currency under these conditions if such foreign currency is available at the Bureau.

18.0 Payments and Receipts through Forex Bureau

- 18.1 Forex Bureau may sell foreign exchange for purposes specified in the Certificate of Authorization provided that a receipt is issued, that a payment is for spot transactions, and supporting documents are filed for audit purposes by the Central Bank's Inspection Team.
- 18.2 A bank which receives any remittance from outside Kenya on behalf of a Forex Bureau shall credit the respective Bureau's Foreign Currency Account immediately.

19. General submission of Returns and Inspection

- 19.1 Every Forex Bureau shall submit weekly returns of its foreign exchange transactions, namely total purchases, sales and transfers in a prescribed form not later than 3.00 p.m. of every working Monday of the week.
- 19.2 Officials of the Central Bank of Kenya may at any time cause an inspection to be made on the premises of the Forex Bureau, its books of accounts or any other records.
- 19.3 It will be the duty of every officer of the Forex Bureau to produce to the officer making an inspection and within a reasonable time such books of accounts and any other documents in the Forex Bureaux custody or power and furnish such statements or information relating to the affairs of the Forex Bureau as that officer may require.

20.0 Confidentiality of Transactions

- 20.1 A proprietor of a Forex Bureau together with its staff shall ensure that all transactions conducted by the Forex Bureau are done and maintained in strict confidence - the normal banking ethics of maintaining confidentiality applies.

DATED the1995.,

MICAH CHESEREM
GOVERNOR
CENTRAL BANK OF KENYA

CENTRAL BANK OF KENYA**APPLICATION FOR****FOREIGN EXCHANGE BUREAU LICENCE**

(To be filled by the person applying for the licence. The application should be submitted to the governor, the Central Bank of Kenya).

PLEASE USE BLOCK (CAPITAL) LETTERS

- Full name of applicant _____
2. Postal address of applicant _____
3. Full name(s) and address(es) of Banker(s) _____
- _____
4. Location of proposed Bureau De Change
- (a) District _____
- (b) City/Town _____
- (c) Plot No. & Street _____
- (d) Other information on location (if any) _____
- _____
5. Certificate of Registration Number _____
6. Full Names specimen signatures and addresses of directors

NAME	SPECIMEN SIGNATURE	ADDRESS
(i) _____	_____	_____
(ii) _____	_____	_____
(iii) _____	_____	_____
(iv) _____	_____	_____

7. DECLARATIONS

(a) I/We the undersigned hereby declare that the above statements are true, correct and also agree to operate the Foreign Exchange Bureaux in accordance with the Foreign Exchange Bureau Rules made under Gazette Notice No. together with any direction made by the Governor under the Regulations.

(b) I/We further declare that I am/We are not undischarged bankrupt and that I/We have never been convicted of fraud or embezzlement.

(c) I/We further declare that I/We the undersigned, that on being granted authorization certificate on the basis of the above statements, if in future all or part of the same is Subsequently found to be materially false, the certificate of authorization so issued shall be subject to be revoked.

Signature _____

Signature _____

Signature _____

Signature _____

Made before this _____ day of _____ 19____

Note:

1. Please attach copies of
 - (a) Certificate of Registration
 - (b) Memorandum & Articles of Association
 - (c) Certified photographs passport size of all directors, owners and would be staff.
 - (d) Certification of financial position from your Banker.

2. All information provided in this form will be treated as confidential and will be for the processing of this application.

FXB

FORM NO. 1(B)

PARTICULARS OF THE PRINCIPAL OFFICERS

NAME OF FOREX BUREAU _____

Name of Principal Officers
1. Executive/Non Executive
2. Age by next 31 Dec.
3. Academic Qualifications
4. Professional Qualifications
5. Banking Experience (Yrs)
6. % Shareholding in Institution
(FOR OFFICIAL USE ONLY)
DECLARATION We the undersigned, confirm that the above details are true to the best of our knowledge. NAME _____ SIGN _____ DATE _____ Director NAME _____ SIGN _____ DATE _____ Authorised Signatory

FXB

FORM NO. 2

PURCHASE OF FOREIGN CURRENCY
(CASH/TRAVELLERS CHEQUES) RECEIPT

BUREAU NO. _____

Name and stamp of forex Bureau _____

Foreign Currency Purchased:

Cheque type T/Cook/Visa etc	Serial Number	Currency (\$, £, DM)	Amount	Rate	Amount in Kenya Shs.
Total in Kenya Shillings					

Particulars of seller:

Name _____

Address in Kenya _____

Nationality _____ Passport No. _____

Signature of Operator _____

Signature of Customer _____

FXB

FORM NO. 3

**SALE OF FOREIGN CURRENCY
(TRAVEL ALLOWANCE AND FOR TRANSFER PURPOSES ONLY)**

Bureau No. _____ Date _____

NAME OF CUSTOMER _____

NAME OF PAYEE _____
AND ADDRESS _____
AMOUNT TRANSFERRED _____

MESSAGE/ADVICE _____
SUPPORTING DOCUMENTS _____
EDUCATION _____

IMPORTS _____

MEDICAL _____

OTHER _____

(Supporting documents to be filled)

Foreign Currency £,\$,DM	Travellers Cheques		Amount in Forex	Exchange Rate	Amount in Kshs.Shillings
	Type	Numbers			

Signature of Customer

Name _____

Passport No. _____

Signature of Operator & stamp of Bureau

*For transfer of Foreign Currency Only.

FXB

FORM NO. 4

RECEIPT FOR INTER BUREAU/BANK SELLING/BUYING

Bureau No. _____ Date _____

Name and address of Buying Bureau/Bank _____

Foreign Currency	Travellers Cheques		Amount in Forex	Exchange Rate	Amount in Kenya Shs.
	Type	Account			

Signature of Operator and Stamp of buying Bureau/Bank_____
Signature of Operator and stamp of selling Bureau