

DRAFT REGULATIONS FOR NON-DEPOSIT TAKING SACCO BUSINESS

For stakeholders and public comments, views and feedback.

By Task Force on the Development of Regulations for Non-Deposit Taking Saccos

10th April 2019

IN EXERCISE of the Powers Conferred by Section 3(2) as read with Section 68(1) of the Sacco Societies Act No. 14 of 2008, the Cabinet Secretary for Industry, Trade And Cooperatives make the following regulations

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<h2 style="text-align: center;">PART I: PRELIMINARY</h2>		
1.	<p>(1) These Regulations may be cited as the Sacco Societies (Specified Non-deposit-taking Sacco Business) Regulations, 2019.</p> <p>(2) These regulations shall come into operation on such a day as shall be published in the Kenya Gazette by the Cabinet Secretary, in consultation with the Authority.</p>	Citation and commencement
2.	<p>The purpose of these regulations is to:</p> <p>(a) Specify the non-deposit taking business to which the Act applies; and</p> <p>(b) Prescribe measures for the conduct of the specified non-deposit taking business</p>	Purpose
3	<p>In these Regulations, unless the context otherwise requires:-</p> <p>“allowance for loan loss” means an amount set aside in the Statement of financial position (Balance sheet) to recognise probable Loan losses so that the true value of the loan portfolio is fairly stated.</p> <p>“amalgamation” is the consolidation of assets, liabilities and equity of two or more Sacco societies to form a new entity referred to as the amalgamated society.</p> <p>“Authority” means the Sacco societies regulatory Authority.</p> <p>“board of directors” has the meaning assigned thereto in the Co-operative Societies Act,</p> <p>“Committee” has the meaning assigned thereto in the Co-operative Societies Act,</p> <p>“committee” has the meaning assigned thereto in the Co-operative</p>	Interpretation

societies Act.

“core capital” means the fully paid up members’ shares, capital issued, disclosed reserves, retained earnings, grants and donations.....

“delinquent loan” – means any loan which the principal and/ or interest remain unpaid after the due date.

“deposit-taking business” has the meaning assigned thereto in the Act

“equity” – is the difference between assets and liabilities, or the total of institutional capital and other capital accounts.

“foreclosed assets” – means real estate and assets of material value that are transferred to the Sacco society because of non-repayment of a loan.

“full and fair disclosure” is the level of disclosure which a prudent person would provide to a member of a Sacco society, to the Authority, or, at the discretion of the committee, to creditors to fairly inform them of the financial condition and the results of operations of the Sacco.

“illiquid assets” – are assets that cannot be readily converted into cash due to the nature of the asset or the condition of the market.

“institutional capital” – means disclosed reserves, retained earnings, grants and donations.

“immediate family member” – is a spouse or other family member living in the same household or under the direct influence of the officer, member or employee.

“non-earning assets” are those assets that do not generate income.

“non-deposit taking business” has the meaning assigned thereto in the Act

“off balance sheet items” – means items not shown on the balance sheet but which constitute a risk to the Sacco society.

“officer” – 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 of a non-withdraw-able deposit taking Sacco society or takes part in the general management

	<p>thereof.</p> <p>“ordinary men of business” shall have the meaning assigned to it under the Co-operative Societies Act</p> <p>“originating Sacco society” - means the Sacco that originated the loan participation when one or more other Sacco societies partner on a loan or multiple loans.</p> <p>“provision for Loan Losses” – An expense in the income statement to reflect an increase in the probability of losses due to uncollected loans.</p> <p>“Sacco business” has the meaning assigned thereto in the Act</p> <p>“financial investments” means investments in government securities, shares and stocks, deposits in institutions licensed under the banking Act, and licensed Sacco societies.</p>	
4	<p>(1) For purposes of Section 3(2) of the Act, the Cabinet Secretary specifies the following as specified non-deposit taking business –</p> <ul style="list-style-type: none"> (a) Non-deposit taking business in which the total non-withdrawable deposits from members is equal to or exceeds the sum of one hundred millions shillings; or (b) Non-deposit taking business in which the SACCO Society mobilizes membership through subscription to membership and share capital through digital or other electronic payment platforms; or (c) Non-deposit taking business in which the SACCO Society mobilizes memberships and subscription to its share capital from persons who are ordinarily resident outside the country <p>(2) For purposes of Regulation 4(1)(b) and (c) of these regulations, a Sacco Society shall not mobilize for membership and subscription to its share capital, through digital or other electronic payment platforms; or from persons who are ordinarily resident outside the country, unless the Sacco society’s total non-withdrawable deposits from members is equal to or exceeds the sum of one hundred millions shillings</p>	<p>Specified non-deposit taking business</p>

	<p>(3) Except as otherwise provided in these regulations, every specified non-deposit taking Sacco business and every Sacco Society undertaking specified non-deposit taking business shall comply with the Act and these regulations.</p> <p>(4) A person who contravenes the provisions of this regulation commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment</p>	
	PART II: AUTHORIZATION	
5	<p>(1) A Sacco Society shall not carry out a specified non-deposit taking Sacco business without written authorization from the Authority</p> <p>(2) A Sacco Society that attains the specifications prescribed in Regulations 4 for conducting specified non-deposit-taking business shall apply to the Authority in writing for authorization within six months of attaining the specifications prescribed.</p> <p>(3) An application for authorization shall be accompanied with:</p> <p>(a) duly completed application for authorization form as may be prescribed by the Authority;</p> <p>(b) duly completed the “fit and proper test” form as prescribed in the regulations for each of the Sacco Society’s;</p> <p>(i) members of the Board of Directors;</p> <p>(ii) members of the Supervisory Committee;</p> <p>(iii) Chief Executive Officer; and</p> <p>(iv) Senior Management staff including but not limited to the heads of the information communication and technology; the internal audit; and the credit management; and the finance functions.</p> <p>(c) a certified copy of the Sacco Society’s registration certificate issued under the Co-operative Societies Act</p>	<p>Authorization requirements</p> <p>Cap 490</p>

	<ul style="list-style-type: none"> (d) a verified official notification of the Sacco Society's registered head office, and any other place of business; (e) a certified copy of the Sacco Society's bylaws; (f) At least a three-year business plan and feasibility study of the Sacco Society to be authorised detailing the vision and mission, scope and nature of business operations, projected profitability to achieve the minimum prudential standards, control measures and monitoring procedures; (g) a certified extract of minutes of the general meeting resolution authorizing the Sacco Society to conduct specified non-deposit taking authorization; (h) the name of the proposed chief executive officer and the staffing level of the SACCO Society's key staff; (i) certified copies of financial statements for the preceding three years, where applicable; (j) evidence that the Sacco Society has adequate capital; and (k) an application fee of Kenya shillings three thousand. <p>(4) The Authority, if satisfied that an applicant has fulfilled the requirements in paragraph (3) above, shall conduct an independent onsite inspection to ascertain if the SACCO Society has put in place —</p> <ul style="list-style-type: none"> (a) appropriate institutional infrastructure, including adequate working space; (b) an Management Information System (MIS) capable of performing and accounting for all transactions and providing the minimum reports required by the Authority, which at the minimum should be able to provide an audit trail report, adequate security features, 	
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	<p>integration of the operations, capacity for future expansion, real time and relational data base management;</p> <p>(c) an appropriate risk management policies and internal control systems; and</p> <p>(d) a suitable organizational, governance and management structure</p> <p>(5) Once the Authority is satisfied that a Sacco Society has complied with conditions in paragraph (4) above, the Authority shall issue the Sacco Society with:</p> <p>(i) a compliance notification requiring the SACCO Society to pay an authorization fee of Kshs 50,000 within 30 days from the date of notification; and</p> <p>(ii) an authorization certificate within 30 days upon receipt of the prescribed authorization fee.</p> <p>(6) Where a SACCO Society fails to pay the prescribed authorization fee within the prescribed time, the compliance notification shall automatically lapse, and the SACCO Society shall be required to make a fresh application under these regulations in default of which the regulation 8 of these regulations shall take effect.</p> <p>(7) Despite the provisions of paragraph (2) the Authority may, at any time and from time to time, and shall, if so directed by the Cabinet Secretary, cause an inspection to be made by any person authorized by the Authority in writing of any Sacco society in Kenya and of its books, accounts and records, to determine if the Sacco society is conducting specified non-deposit-taking business.</p>	
6	<p>(1) The Authority shall cause the list of all Sacco societies authorized to undertake specified non-deposit taking business to be published once every year in the Kenya Gazette and at least in one newspaper of national circulation.</p>	<p>Publication of the specified non-deposit taking business</p>

	<p>(2) Despite the provisions of paragraph (1) the Authority:</p> <p>(a) shall publish in the Kenya Gazette and at least in one newspapers of national circulation any newly authorised Sacco Society, within sixty days of such authorisation; and</p> <p>(b) may from time to time publish the list of all Sacco societies authorized to undertake specified non-deposit taking business in Kenya Gazette, newspapers of wide circulation, Authority's website or other media.</p>	
7	<p>(1) A Sacco society authorised to undertake specified non-deposit taking business under the Act and these regulations shall include as part of its name and use at all material times the following words "<i>Regulated Non-Deposit Taking SACCO</i>" or "<i>Regulated Non-DT-SACCO</i>" or any of its derivatives.</p> <p>(2) A person shall not use:</p> <p>(a) the words "<i>Regulated Non-Deposit Taking SACCO</i>" or "<i>Regulated Non-DT-SACCO</i>" or any of its derivatives; or</p> <p>(b) any words indicating the transaction word of a regulated non-deposit taking business or its equivalent;</p> <p>in the name, description or title under which that person transacts business in Kenya, or make representation that the person transacts specified non-deposit taking business unless the person is authorised under these regulations.</p> <p>(3) A person who violates the provisions of paragraph (2) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding three years, or both</p>	Distinguishing Specified Non Deposit Taking Sacco Societies
8	<p>(1) Where the Authority determines that a Sacco society ought to apply and obtain authorization under these regulations, but has failed to apply</p>	Failure to obtain authorizations

	<p>within the prescribed time, or obtain authorization to conduct specified non-deposit taking business, the Authority shall -</p> <ul style="list-style-type: none"> (a) issue an order prohibiting the Sacco society from taking any further non-withdrawable deposits with immediate effect; (b) notify members of the public and employers to immediately cease and desist from making any further remittances of non-withdrawable deposits to the Sacco society; (c) direct the bankers and any other payment service providers to cease and desist from receiving any funds on the accounts or on behalf of the Sacco society; (d) publish and publicise that the Sacco society is not authorised to take any further non-withdrawable deposits; or (e) take any other supervisory enforcement actions and impose any other appropriate sanctions to protect the interest of the members of the public, in accordance with provisions of the Act, these regulations; or (f) make recommendations to the commissioner for cooperative development and relevant county government as may be appropriate <p>(2) A Sacco Society aggrieved by an action taken pursuant to provisions of paragraph (1) may appeal within thirty days to the cabinet secretary.</p>	
9	<p>(1) An authorization certificate issued by the Authority pursuant to these regulations shall be valid unless otherwise revoked.</p> <p>(2) Notwithstanding paragraph (1), a SACCO Society shall not later than 30th day of November of every year, submit to the Authority:</p>	Validity of Authorization

	<p>(a) An annual authorization fee of fifty thousand shillings;</p> <p>(b) an annual authorisation fee of ten thousand shillings for each of the Sacco Society's authorised place of business; and</p> <p>(c) A duly completed annual data and information form on the operations and performance of the SACCO Society in the prescribed form.</p> <p>(3) A Sacco society shall at all times display a valid authorization certificate issued by the Authority in a conspicuous place within its head office; and a certified copy of the authorization certificate in its other places of business.</p> <p>(4) A Sacco society or an officer thereof, which violates the provisions of paragraph (3) shall be liable to a financial penalty not exceeding one hundred thousand shillings in accordance with Section 51 of the Act.</p>	
10	<p>(1) The Authority may revoke an authorization issued under these regulations on the grounds that a SACCO Society has:</p> <p>(a) failed to maintain at least fifty-percent of the prescribed minimum capital adequacy requirements; or</p> <p>(b) ceased to carry on specified non-deposit taking business in Kenya or goes into liquidation or is wound up or is otherwise dissolved or de-registered under the Co-operative Societies Act; or</p> <p>(c) failed to comply with this Act, the Cooperative Societies Act or any rules, these regulations, guideline, orders or directives issued under the Act, or any condition imposed upon or attached to the authorization certificate;</p> <p>(d) failed to pay the prescribed authorization fees or authorization renewal fees or a duly completed annual data and information form;</p> <p>(e) has knowingly engaged in serious criminal, or fraudulent acts that are likely to cause insolvency, substantial dissipation of assets or</p>	<p>Revocation of the authorization</p> <p>Cap 490</p>

earnings or may otherwise weaken the business of the Sacco society or seriously prejudice the interests of the Sacco society's members.

- (2) Upon revocation of the authorization issued under these regulations; the Authority shall take or institute appropriate supervisory enforcement actions to preserve all the assets, books and records of the Sacco Society for a period not exceeding thirty days, pending liquidation
- (3) A person who at the time of revocation of an authorization was an officer of a Sacco Society shall not participate in the oversight and management of any other Sacco Society without the written approval of the Authority.
- (4) A person who violates the provisions of paragraph (3) herein commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both.
- (5) The Authority shall cause to be published forthwith in the Kenya Gazette and at least one newspaper of national circulation:
 - (a) the name of every Sacco Society whose authorization is revoked under these regulations, and
 - (b) every person who at the time of revocation of an authorization was a senior officer, or a former senior officer of the affected Sacco society during the twelve months period preceding the revocation
- (6) An aggrieved Sacco Society may appeal to the Cabinet Secretary in respect of the revocation within fifteen days after being notified of the revocation, but such an appeal shall not operate as a stay of the revocation.

	PART III: CAPITAL ADEQUACY	
11	<p>(1) A Sacco society shall at all times maintain:</p> <ul style="list-style-type: none"> (a) core capital of not less than five million shillings; (b) core capital of not less than eight percent of total assets, provided that at least fifty per cent of the core capital shall be composed of retained earnings and disclosed reserves; and (c) core capital of not less than eight percent of total non-withdrawable deposits. <p>(2) Despite the provisions of paragraph (1), the Authority may at any time and from time to time, require higher minimum capital ratios for a Sacco society where the Sacco Society; –</p> <ul style="list-style-type: none"> (a) has losses resulting in a capital deficiency; (b) is significantly exposed to risk; (c) has a high, or particularly severe volume of poor quality assets; and if – <ul style="list-style-type: none"> (i) the Sacco Society is growing rapidly without adequate capitalisation and risk management system among other resource needs; or (ii) there is a likelihood that the Sacco society may be adversely affected by the activities or conditions of its associates or subsidiaries 	Minimum Capital Requirements
12	<p>(1) A Sacco society shall prepare and submit to the Authority, at the end of every quarter to be received by the 15th day of the following month, a return on Capital adequacy as set out in Form 1 in the First Schedule to these regulations</p> <p>(2) The SACCO society that fails to comply with this regulation shall be liable to such administrative sanctions as may be prescribed in these regulations.</p>	Capital adequacy return

13	<p>Where a Sacco society fails to meet its capital adequacy requirements, in addition to sanctions provided by section 51 of the Act, the Authority may pursue any or all of the following administrative sanctions against the Sacco Society:</p> <ul style="list-style-type: none"> (a) suspension of lending and investment; (b) prohibition from acquiring, through purchase or lease of any additional land and buildings; (c) prohibition from accepting further non-withdrawable deposits or other lines of credit; (d) any other action deemed appropriate by the Authority. 	Sanctions for non-compliance
PART IV: LIQUIDITY MANAGEMENT		
14	<p>(1) The board of directors of a Sacco Society shall be responsible for formulating, reviewing and approving the liquidity policy of the Sacco Societies on periodic basis.</p> <p>(2) A liquidity policy of a Sacco Society prepared in accordance with paragraph (1) shall at the minimum provide for the:</p> <ul style="list-style-type: none"> (a) constitution, appointment and composition of a technical liquidity management team responsible for responsible for the daily liquidity management; (b) measures of analysing and monitoring liquidity performance; (c) criteria for determining and accessing lines of credit for liquidity purposes; (d) contingency plan to handle liquidity crises including procedures for making up liquidity shortfalls in emergency situations and back-up liquidity strategy for circumstances in which the normal approach to funding operations are disrupted; (e) minimum and maximum for total cash assets; (f) cash holding limit; (g) frequency for the liquidity management; and 	Liquidity Management

<p>(h) any other matter as may be directed by the Authority</p> <p>(3) A Sacco society shall maintain a minimum liquidity ratio of ten percent of its non-withdrawable deposits liabilities in liquid assets.</p> <p>(4) For purposes of this regulation, 'liquid assets" include:</p> <ul style="list-style-type: none"> (a) notes and coins; (b) balances at institutions licensed under the Sacco Societies Act and/or Banking Act after deducting there from balances owed to those institutions; (c) government securities; (d) deposits held at other Sacco societies of a maturity not exceeding 91 days after deducting there from balances owed to those Sacco societies; (e) value of balances in electronic transfer systems; and (f) such other liquid assets as the Authority may specify. <p>(5) A Sacco Society that fails to the prescribed minimum liquidity ratio shall in addition to penalties prescribed in section 30(3) of the Act, be liable to administrative sanctions as follows—</p> <ul style="list-style-type: none"> (a) suspension of lending and investing; (b) suspension from taking new non-withdrawable deposits; (c) prohibition from acquisition of additional non-core assets; (d) prohibition from declaring dividends, paying bonuses, salary incentives and other discretionary compensation to officers of the Sacco Society; (e) prohibition or suspension from activities that the Authority perceives to be contributing to the liquidity strain in the affected; and (f) any other supervisory enforcement action or administrative directive as the Authority may deem appropriate 	
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15	<p>(1) A Sacco society shall submit to the Authority a liquidity statement return at the end of every quarter to be received on or before the 15th day of the following month as set out in Form 2 in the First schedule to these regulations.</p> <p>(2) Despite the provisions of paragraph (1) the Authority may require a Sacco society to submit a liquidity statement or any other information as often as it may be necessary to evaluate and monitor the Sacco society's liquidity position.</p> <p>(3) A Sacco Society that, or an officer of a Sacco Society who, without justifiable cause, fails to submit or causes the Sacco Society to fail to submit, liquidity statement return or other information, within the prescribed period shall be liable to pay a financial penalty in the sum not exceeding fifty thousand shillings for every incidence.</p>	Liquidity Statement return
16	<p>(1) A Sacco society shall not engage in the following activities:</p> <ul style="list-style-type: none"> (a) deposit-taking sacco business; (b) foreign trade operations; (c) dealing in crypto currencies; (d) trust operations; (e) custodial services; (f) investing in venture capital; (g) underwriting or placement of securities; (h) purchase or otherwise acquisition of any land except as may be reasonably necessary for the purpose of expanding the Sacco business beyond the prescribed limits; (i) transacting business with non-members; (j) such other activities as the Authority shall prescribe. <p>(2) An officer of a Sacco society that contravenes the provisions of this</p>	Prohibited Business

	regulation commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding three years, or both	
17	<p>(1) Subject to these regulations, a Sacco society may open and operate a place of business, other than its head office, including but not limited to a branch, marketing office, satellite office or an outlet.</p> <p>(2) A Sacco Society intending to open and operate a new place of business in accordance with paragraph (1) shall:</p> <ul style="list-style-type: none"> (i) notify the Authority in writing of such intention at least ninety days prior to the intended opening place of business; (ii) obtain a written approval from the Authority prior to establishing the intended new place of business; (iii) upon payment of the prescribed fee obtain a written authorization to operate the new place of business, which shall be duly endorsed upon the Sacco Society's operating authorization certificate; and (iv) at all times display the written authorization to operate a place of business at the designated place of business. <p>(3) The Authority shall consider the request to open and operate the new place of business, subject to the Authority being satisfied that the Sacco Society has fully complied with the Act, these regulations and any other guidelines or directives.</p> <p>(4) A Sacco society shall pay an annual authorization fee in the sum of ten thousand shillings for every authorised place of business.</p>	Opening of a place of business
18	(1) A Sacco society shall not relocate its head office or other authorised place of business without a written approval by the Authority.	Relocation of a place of business

	<p>(2) An application for an approval to relocate a head office or other place of business shall be made to the Authority in writing, and shall be accompanied by the following information:</p> <p>(a) the reasons given for the change of location and plan for settlement or transfer of claims and liabilities; and</p> <p>(b) completion of the preparations of the new place of business premises.</p>	
19	<p>(1) A Sacco Society shall not without the written approval of the Authority close or cause to be closed a place of business, in a manner so as to permanently cease operation of business.</p> <p>(2) An application to close a place of business shall be made to the Authority and shall be accompanied by-</p> <p>(a) the reasons for such closure; and</p> <p>(b) a plan for settlement or transfer of assets and liabilities.</p> <p>(3) In deciding on the approval to authorise the closure of a place of business, the Authority shall be satisfied that:</p> <p>(a) the public interest in the location of the Sacco society will not be jeopardized by the closure; and</p> <p>(b) alternative financial services provided by the Sacco society are available in the locality.</p> <p>(4) The Authority shall consider the application for permanent closure of a place of business and if satisfied, may grant approval.</p> <p>(5) A Sacco society granted approval to close its business permanently shall –</p>	<p>Closing a place of business</p>

	<p>(a) give a notice of the closure to the members at least 90 days prior to such closure, in at least one newspaper of nationwide circulation or through any other method acceptable to the Authority and;</p> <p>(b) report closure to the Authority not later than fourteen days after closure</p>	
20	<p>(1) An officer of a Sacco society who without cause, contravenes provisions of the regulations on opening and operating; or relocating; or closure of, a place of business shall be liable to a financial penalty not exceeding a sum of one hundred thousand shillings.</p> <p>(2) A person who contravenes the regulations on place of business commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.</p>	Sanctions
	<p>PART V: SHARES AND NON-WITHDRAWABLE DEPOSITS</p>	
21	<p>(1) A Sacco society shall prescribe a minimum number of shares at a par value for which an individual shall subscribe to become a member, provided that a Sacco Society may not increase the number of minimum shares or the par value of its shares, without written prior approval from the Authority</p> <p>(2) A Sacco society shall maintain in its registered head office an updated and accurate member shares register which at minimum shall provide the following information and details for each member:</p> <p>(a) full names of the member;</p> <p>(b) member's unique number assigned by the Sacco Society;</p> <p>(c) member's national Identity Card number;</p> <p>(d) number of shares subscribed to by the member;</p> <p>(e) total value of the shares subscribed to by the member;</p> <p>(f) gender of the member;</p>	Terms of Member shares

	<p>(g) year of birth of the member;</p> <p>(h) address of the member including postal, physical, email or telephone addresses;</p> <p>(i) next of kin of the member, and address of the next of kin including postal, physical, email or telephone addresses; and</p> <p>(j) any other information or details as the Authority may direct</p> <p>(3) A Sacco Society shall issue share certificates to each of its members within thirty days upon payment for the shares.</p> <p>(4) A share certificate issued to a member shall at the minimum bear the:</p> <p>(a) full names of the Sacco Society;</p> <p>(b) address of the Sacco Society including the locations of the registered offices; the postal, telephone and email addresses; and any other addresses;</p> <p>(c) full names of the member to whom it is issued as appears in the shares register;</p> <p>(d) member's unique number as may be assigned by the Sacco Society;</p> <p>(e) number of shares subscribed to and duly paid for by the member;</p> <p>(f) seal of the Sacco Society;</p> <p>(g) signature of the authorised signatory of the Sacco society;</p> <p>(h) date of issuance;</p> <p>(i) unique serial number; and</p> <p>(j) any other matter as the Authority may direct.</p> <p>(5) The Authority may at any time and from time to time require a Sacco Society to submit for inspection the shares register maintained in accordance with these regulations.</p>	COMMENTS
22	(1) A member of a Sacco Society shall not pledge shares as collateral or	Restrictions on

	<p>security for a loan or any other credit facility granted by the Sacco society.</p> <p>(2) A member of a Sacco Society may transfer shares to another or other members on leaving membership of a Sacco society, provided the Sacco society shall not refund shares.</p> <p>(3) Shares may earn dividends paid from net surplus after required transfers to reserves at the end of a financial year in accordance with the dividend policy of a Sacco society.</p> <p>(4) A Sacco society shall not pay dividends unless it has realised an excess income over expenditure and complied with the prescribed capital adequacy and any other requirements that the regulations may prescribe.</p>	dealing in shares
23	<p>(1) A Sacco society shall maintain an updated and accurate non-withdrawable deposit account for each member of the Sacco Society which at minimum shall provide for the:</p> <p>(a) full names of the member;</p> <p>(b) member's unique number assigned by the Sacco Society;</p> <p>(c) Account number of the member assigned by the Sacco Society;</p> <p>(d) member's national Identity Card number;</p> <p>(e) gender of the member;</p> <p>(f) year of birth of the member</p> <p>(g) address of the member including postal, physical, email or telephone addresses and</p> <p>(h) updated account balances</p> <p>(2) The non-withdrawable deposit account of a Sacco Society shall be operated in accordance with the Act, these Regulations, any guidelines or directives issued by the Authority, the Sacco society's</p>	Non-withdrawable Deposits

bylaws or policies.

- (3) The amount accumulated in a member's non-withdrawable deposit account may at the application of such a member, and subject the Sacco Society's by-laws and policies, be used as collateral or security against any borrowings or credit facilities advanced by the Sacco Society to the member.
- (4) The amount accumulated in a member's non-withdrawable deposit account shall be refunded only when the member withdraws from membership of the Sacco society, provided the member has fully repaid all his debts and is free from any outstanding guarantees.
- (5) Where a Sacco society operates non-withdrawable deposit accounts, every member shall contribute on a monthly basis or at such fixed periods and in such amounts as determined by the Sacco society.
- (6) A Sacco society shall refund a member the amount saved in the member's non-withdrawable deposit account within sixty days; or such shorter period as the Authority may direct or the Sacco society may decide, upon receipt of a written notification to withdraw from the membership.
- (7) The amount held in a non-withdrawable deposit account shall attract interest at a rate to be determined by the Sacco society as dictated by external market forces or internal funding needs.
- (8) The amount held in a non-withdrawable deposit account of a member or any portion thereof shall not be :
 - (a) converted to the share capital of the Sacco Society; or
 - (b) withdrawn to pay for or towards the payment of a share capital of the Sacco Society

	(9) The Authority may at any time and from time to time require a Sacco Society to submit for inspection the members' non-withdrawable deposits account maintained in accordance with these regulations.	
24	(1) A Sacco society shall submit to the Authority a statement on its non-withdrawable deposits at the end of every quarter to be received on or before the 15 th day of the following month as set out in Form 3 in the First Schedule to these regulations.	Deposits Return
25	(1) A Sacco society shall maintain an account for each of its members through which shares and deposit transactions with the member shall be recorded. (2) A Sacco society shall provide each member, at least annually or upon request by a member, a statement for each account that provides adequate detail of each transaction made during the period. (3) The Sacco society may establish an electronic mechanism for members to access their shares and deposit transaction statement electronically and at their convenience in which case sub section (1) shall not apply.	Record Keeping
26	(1) A Sacco society shall disclose to its members and potential members, the terms and conditions for operating each account and legal obligations attendant thereto. (2) An advertisement in respect of terms and obligations attendant to an account offered by a Sacco society shall not be misleading or inaccurate and shall not misrepresent a Sacco society's account contract.	Deposits disclosure requirements
27	(1) A Sacco society shall deem a non-withdrawable account as dormant if, without justifiable cause, no transactions have been made therein for a period of twelve months; and the Sacco society must maintain a separate accounting record of all such non-withdrawable accounts.	Dormant Accounts

	<p>(2) Any deposits and other sums due to a member shall be deemed to be unclaimed in accordance with the provisions of the Unclaimed Financial Assets Act and the regulations made thereunder.</p> <p>(3) The Board of Directors of a Sacco society shall comply with the provisions of the Unclaimed Financial Assets Act and the regulations made thereunder with respect to any unclaimed deposits or any sums due to a member or a member's nominee.</p>	<p>Act No. 40 of 2011</p> <p>Act No. 40 of 2011</p>
	PART VI: CREDIT MANAGEMENT	
28	<p>(1) Except as otherwise provided, these regulations shall apply to all credit facilities to members.</p> <p>(2) A Sacco society shall have a written credit policy consistent with the relevant provisions of the Act, these regulations and any other applicable laws.</p> <p>(3) A credit policy of a Sacco society shall at the minimum provide for the:</p> <ul style="list-style-type: none"> (a) composition, constitution and appointment a credit committee of the Board; (b) composition, constitution and appointment of technical credit committee that is appropriately staffed; (c) responsibilities and duties of each committee; (d) loaning procedures and their documentation; (e) eligibility/ requirements for a loan; (f) permissible loan purposes and acceptable types of collateral; (g) loan concentration limits; (h) terms (loan types, interest rates, frequency of payments) and conditions; 	<p>General Lending requirements</p>

	<ul style="list-style-type: none"> (i) maximum loan size per product; (j) loan performance classification and provisioning of impairment reserve; (k) where collateral is used as security for lending, maximum loan amounts as a percentage of the collateral values; (l) minimum due diligence procedures (ownership, county rates, lease period, pre-charge search and post-charge search); (m) appraisal of the borrower's ability to repay the loan; (n) terms and conditions for insider lending; (o) maximum loan approval levels for each officer and committees; (p) guarantorship requirements; (q) procedures for disposal of foreclosed assets; (r) any other matter or information as the Authority may direct <p>(4) A member may repay a credit facility prior to its maturity in whole or in part on any business day without being charged full-time interest or any form of a fee.</p> <p>(5) Except as otherwise provided, no director or employee of a Sacco society, or immediate family member of a director or employee shall receive anything of value or other compensation in connection with any loan made by the Sacco society.</p> <p>(6) The board credit committee of a Sacco society shall be responsible for ensuring that the written credit policy remains up-to-date and reflect current lending practices.</p> <p>(7) A Sacco society shall provide at least 60-day's written notice to every member affected by a change in any term disclosed in the loan contract.</p> <p>(8) A Sacco society shall provide each borrower, at least annually and upon request by a member, a statement for each outstanding credit</p>
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	facility that provides adequate detail of each transaction made during the period.	
29	<p>(1) A Sacco society shall submit to the Authority on quarterly basis a register of all loans issued to its members during the quarter to be received on or before the 15th day of the following month.</p> <p>(2) The loans register submitted under the provisions of paragraph (1) shall at the minimum provide :</p> <ul style="list-style-type: none"> a) member number; b) member name; c) member national identity card number; d) gender; e) year of birth; f) loan account number; g) amount of loan issued; h) date of loan issuance; i) purpose of the loan; j) sector; k) repayment period in months; <p>(3) The Authority shall from time to time issue circulars to the Sacco societies prescribing the sectoral classification of loans to be applied in classifying the loan purposes.</p>	Sectoral loan classification return
30	<p>A Sacco society shall disclose at a minimum the following lending terms and legal obligations between the parties as applicable:</p> <ul style="list-style-type: none"> (a) amount to be financed. (b) finance charges (including interest rate, fees and any other charges that may be imposed) 	Lending disclosures requirements

	<ul style="list-style-type: none"> (c) interest computation method (variable, fixed, flat or reducing) and the date interest charges begin to accrue. (d) conditions for refinancing of loans. (e) conditions for consolidation of loans. (f) frequency of issue of statements. (g) collateral required to secure the lending 	
31	<ul style="list-style-type: none"> (1) Loan interest rates may be established by management and shall be approved by the board of a Sacco society. (2) As Sacco society shall recover the interest due and any charges first from any loan repayment instalment. (3) A Sacco society may levy a late charge in connection with collecting a debt arising out of an extension of credit which remains unpaid after its due date. (4) A Sacco society shall be limited to the interest it recovers from a debtor with respect to a delinquent loan up to the limit not exceeding the amount owing when the loan became delinquent. 	Interest rates, fees and penalties
32	<ul style="list-style-type: none"> (1) A Sacco society shall ensure that: <ul style="list-style-type: none"> (a) all loans granted or issued by the Sacco Society are fully and adequately secured; and, (b) no member is allowed to over-guarantee (2) A guarantor shall be adequately informed of the nature, purpose and amount of the liability prior to signing an agreement creating guarantor liability. (3) A Sacco Society shall ensure that a member is adequately informed of the performance of a credit facility for which he/ she has guaranteed at 	Security for Loans

	<p>least once every year.</p> <p>(4) A Sacco society shall not grant a loan or credit facility against a member's shares.</p> <p>(5) A Sacco society shall not grant to any member or permit to be outstanding any loan such that the aggregate amount in respect of that member at any time exceed ten percent of the Sacco Society's core capital.</p> <p>(6) A Sacco society or an officer thereof, which violates the provisions of this regulation shall be liable to a financial penalty not exceeding one hundred thousand shillings in accordance with Section 51 of the Act</p>	
33	<p>(1) A Sacco society may borrow or lend to another Sacco society for purposes of providing funding for member loans or to finance temporary liquidity short falls provided that:</p> <p>(a) a Sacco society shall not borrow or lend to another Sacco society without a written approval of the Authority;</p> <p>(b) a borrowing Sacco society shall not exceed the prescribed limit for external borrowings;</p> <p>(c) the Sacco society's board shall approve the borrowing or lending to other Sacco societies;</p> <p>(d) the terms and conditions for borrowing or lending shall be evidenced by a signed written agreement between or among the participating Sacco societies to be approved by the Authority;</p> <p>(e) where a Sacco society borrows for the purposes of on lending to members, it shall price loans to members with due regard to the cost of the borrowed funds; operating expenses; quality of existing loan portfolio and their provisioning thereof; capital requirements of the Society; dividend and interest rebates expectations</p>	Inter Sacco borrowings

	<p>(2) The Authority may from time to time develop and issue guidelines to make provisions for the inter-sacco borrowing framework to be complied with by Sacco societies.</p>	
34	<p>(1) A Sacco society intending to introduce a new loan product or financial services shall;</p> <p>(a) conduct a feasibility study to establish its demand and sustainability of the proposed product taking into consideration the attendant risks and the liquidity position of the Sacco society; and</p> <p>(b) seek a written approval from the Authority to introduce the product or services</p> <p>(2) Upon obtaining the approval of the Authority, the board of directors of the Sacco society may approve the proposed new product or service before implementation.</p> <p>(3) An officer of a Sacco society, who violates the provisions of this regulation, shall be liable to a financial penalty not exceeding one hundred thousand shillings in accordance with Section 51 of the Act.</p>	Approval of new products and services
35	<p>(1) A Sacco society shall not acquire external borrowings in excess of 25% of its total assets unless the limit has been waived by the Authority.</p> <p>(2) An application for such a waiver shall contain a detailed explanation demonstrating the need to raise the limit above 25% of its assets.</p> <p>(3) The Authority may grant the waiver request under exceptional circumstances, and shall impose such terms and conditions on the waiver as it deems fit, if the proposed borrowing limit is not likely to have any adverse effect on the safety and soundness of the Sacco society.</p> <p>(4) A Sacco society shall not increase or make proposals to a general meeting to increase the borrowing powers pursuant to Co-operatives Societies Act;</p>	External Borrowing and limits on loans

	<p>(a) except with a written consent of the Authority; and</p> <p>(b) upon demonstrating to the satisfaction of the Authority that the proposed increase in the borrowing powers shall not exceed the limit prescribed in these regulations.</p> <p>(5) External borrowing shall only be for the purpose of funding the loan portfolio of the Sacco Society.</p> <p>(6) For the avoidance of doubt the computation of external borrowing under these regulations shall include any outstanding contingent liabilities or obligations that the Sacco society may have contracted.</p>	
36	<p>(1) An officer of a Sacco society shall not use his or her position to further their personal interest.</p> <p>(2) All loans to directors and employees shall be approved or ratified by the board of directors and where the loan applicants attend board meetings, they shall not be present in the meeting considering their loan application.</p> <p>(3) The rates, terms and conditions of any loan made to an officer or a board member, his immediate family member, or their business associates shall not be in any way more favourable than those offered to other Sacco society members.</p> <p>(4) A Sacco society shall not lend to its staff and members of the board or their associates; or permit to be outstanding, an amount in the aggregate exceeding 5% of its total assets in addition to adherence to the loaning policy.</p> <p>(5) A Sacco Society shall submit to the Authority insider lending and loans performance report, to be received by the fifteenth day of every month, in such manner and format as may be prescribed by the Authority</p>	Insider lending and dealing

	<p>(6) An officer of a Sacco society, who violates the provisions of this regulation, shall be liable to a financial penalty not exceeding one hundred thousand shillings in accordance with Section 51 of the Act.</p>	
37	<p>(1) Where a Sacco society holds an asset in satisfaction of a debt, disposition of such asset must occur within one year, failure to which the Sacco society shall provide for probable loss at 25% per annum</p> <p>(2) Where the proceeds from the sale of the asset exceeds the amount owing by the member, the excess amount shall be returned to the member after accounting for advertising charges and any other charges related to disposal of the asset.</p> <p>(3) A Sacco society shall dispose a foreclosed asset in accordance with the charge.</p> <p>(4) Where the charge specifies disposal through public auction a Sacco society shall advertise disposal of the asset in a national newspaper of nationwide circulation any day between Mondays and Fridays excluding public holidays.</p> <p>(5) Any decline in the value of the property, as established by subsequent appraisals, shall be made through provisioning for the foreclosed asset.</p> <p>(6) Assets of material value received by the Sacco society as partial or full payment for a borrower's indebtedness shall be accounted for at the lower of the outstanding loan balance or the market value on the date the asset is transferred to the foreclosed account.</p> <p>(7) Any losses due to the loan balance being greater than the market value shall be charged to the allowance for loan losses when the asset is transferred to the foreclosed account.</p>	Foreclosed assets

	<p>(8) The Sacco society shall maintain adequate written documentation which shall provide evidence of management's efforts to dispose the property within the time frame established in this regulation and include any legitimate offers to buy the asset.</p> <p>(9) Officers of a Sacco Society or their family members shall not purchase foreclosed assets.</p> <p>(10) An officer of a Sacco society, who violates the provisions of this regulation, shall be liable to a financial penalty not exceeding one hundred thousand shillings in accordance with Section 51 of the Act.</p>	
38	<p>(1) When a loan application is rejected, the Sacco society shall communicate to the applicant in writing the reasons for rejection of the loan within fourteen days of the receipt of the application</p> <p>(2) A Sacco society shall not levy fees where the only amount delinquent on a member's loan account is attributable to late fee(s) or any other charges assessed on earlier instalments or payments made.</p> <p>(3) A Sacco society may appoint a debt collector after exhausting the normal debt collection procedures.</p> <p>(4) A debt collector appointed by a Sacco society shall not engage in any conduct, the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt or any of the following;</p> <p>(a) use of threat, or violence or other criminal means to physically harm the person, reputation, or property of any person;</p> <p>(b) use of obscene or profane language;</p> <p>(c) engaging any person in conversation on the telephone or in person with the intent to annoy, abuse or harass until they repay the debt;</p>	Credit Collection Practices

	<p>(d) any false, deceptive, or misleading representation or means in connection with the collection of any debt, including;</p> <ul style="list-style-type: none"> (i) false representation of the character, amount or legal status of any debt; (ii) the false representation or implication that any individual is an attorney or that any communication is from an attorney; (iii) the threat to take any action that cannot be legally enforced or that is not intended to be taken; (iv) communicating or threatening to communicate to any person credit information that is known to be false. <p>(5) A debt collector shall not collect interest, fees, charges or expenses unless they are mentioned in the loan agreement or contract.</p> <p>(6) A debt collector shall not collect his/her fees directly from a debtor.</p>	
	PART VII: RISK CLASSIFICATION OF ASSETS AND PROVISIONING	
39	<p>(1) A Sacco society shall undertake a detailed review of its credit portfolio at least once every quarter and shall ensure that:</p> <ul style="list-style-type: none"> (a) loan granting and lending conforms to the approved credit policy; (b) non-performing credit facilities are adequately identified and classified in accordance with the classification criteria prescribed in these regulations; (c) appropriate and adequate level of provisioning for potential loss are made and maintained at all times. <p>(2) The board of directors of a Sacco Society shall at least once every quarter consider a report on the review of the Sacco Societies credit portfolio undertaken in accordance with paragraph (1)</p>	Classification requirements
40	<p>(1) One-off loan payment shall be deemed to be delinquent if the total</p>	Computing

	<p>principal balance and/ or interest are not serviced at their due date.</p> <p>(2) The entire principal balance shall be deemed delinquent where the missed payment was for interest only.</p>	Delinquency
41	<p>(1) The Sacco society shall classify its loan portfolio based on performance vis-à-vis the terms provided in the loan contract.</p> <p>(2) Where the loan interest payments are due, the loan classification will be based on the defaulted interest payments.</p> <p>(3) All loans shall be classified into five categories on the basis of the following criteria;</p> <ul style="list-style-type: none"> (a) Performing loans, being loans which are well documented and performing according to contractual terms; (b) Watch loans, being loans whose principal or interest have remained un-paid for one day to thirty days or where one instalment is outstanding; (c) Substandard loans, being loans not adequately protected by the current repayment capacity and the principal or interest have remained unpaid between thirty one to one eighty days or where two to six instalments have remained outstanding; (d) Doubtful loans, being loans not adequately protected by the current repayment capacity and the principal or interest have remained unpaid between one hundred and eighty one to three hundred and sixty days or where seven to twelve instalments have remained outstanding; (e) Loss loans, being loans considered uncollectable or of such little value that their continued recognition as receivable assets is not warranted, not adequately protected and have remained unpaid for more than three hundred and sixty day or where more than twelve instalments have remained outstanding. <p>(4) A restructured loan may be reclassified if a sustained record of</p>	Basis of classification

	<p>performance is maintained for six months or 6 instalments have been made from the date of the restructuring. Provided no loan shall be restructured more than once, without the approval of the board, in its life cycle.</p> <p>(5) All interest on non-performing loans and advances shall be suspended once a loan is classified as sub-standard, doubtful, and loss and shall not be treated as income. Interest in suspense shall be taken into account in computing provisions for non-performing loan accounts.</p> <p>(6) At no time shall accrued interest income arising from loans exceed thirty days earnings of the entire loan portfolio.</p>	
42	<p>(1) Where a Sacco society obtains collateral for purposes of protecting itself against probable loan loss, the Sacco society shall ensure that the collateral is duly charged and adequately insured based on an independent registered valuer's report and revaluation shall be done every three years.</p> <p>(2) A Sacco society shall maintain an up to date register of all securities and/ or collaterals provided for securing loans which at the minimum shall provide-</p>	Treatment of collateral
43	<p>(1) A Sacco society shall assess and provide for loan losses allowance for non-performing loans as follows;</p> <p>(a) One percent for a loan classified as performing.(General Risk);</p> <p>(b) five percent for a loan classified as watch;</p> <p>(c) twenty-five percent for a loan classified as substandard;</p> <p>(d) fifty percent for a loan classified as doubtful; and</p> <p>(e) one hundred percent for a loan classified as loss</p> <p>(2) Without prejudice to the classification sequence for provisioning</p>	Loan loss allowances

	<p>prescribed in paragraph 1 above, a Sacco society may provide fully for accounts deemed uncollectable at any time.</p>	
44	<p>(1) A Sacco society shall write-off a loan or part of a loan from its Statement of financial position when it loses control of the contractual rights over the loan or when all or part of the loan is deemed uncollectible or where there is no realistic prospect of recovery. Such circumstances shall be deemed to have arisen where:</p> <ul style="list-style-type: none"> (a) a court has ruled against the Sacco Society; (b) all forms of securities or collateral have been called, realized but proceeds failed to cover the entire facility; (c) a Sacco society is unable to collect or there is no collateral; (d) a borrower is adjudged bankrupt; (e) efforts to collect the debt are abandoned for any other reason. <p>(2) The procedure for write-off should be detailed in the credit policy and any recovery made from any account previously written-off shall be credited back to the allowance for loan losses account in the financial statement and shall not be recognised as income in the year it is recovered.</p> <p>(3) Despite the provisions of paragraph (1), a Sacco society shall not write off any loans to insiders or their associates, except with a prior written approval of the Authority</p>	Loan write off
45	<p>A Sacco society shall submit to the Authority a return on the loan loss provisioning at the end of every quarter to be received on or before the 15th day of the following month.</p>	Risk classification return
PART VIII: INVESTMENTS		
46	<p>(1) A Sacco society's board of directors shall be responsible for formulating, reviewing and amending the investment policy that is consistent with the</p>	Investment policy

	<p>Act, these regulations and any other applicable laws.</p> <p>(2) A Sacco society's investment policy shall at the minimum provide for:</p> <ul style="list-style-type: none"> (a) purpose and objectives of investment activities; (b) types and nature of investments that can be made; (c) investment characteristics and limitations; (d) investment approval guidelines; (e) duties and responsibilities of a committee handling investment; (f) investment risk management framework; (g) composition, qualifications and competencies of persons handling the investment decisions; (h) any other matter as the Authority may direct 	
47	<p>(1) A Sacco society shall not invest in land and buildings; and equipment in excess of 10% of total assets, unless a waiver to that effect has been obtained from the Authority, provided that the:</p> <ul style="list-style-type: none"> (a) investment in land and buildings shall not exceed five percent of the total assets; and (b) donated assets and foreclosed assets are excluded in arriving at this percentage. <p>(2) The request for such waiver shall include a detailed investment appraisal showing the cost and justification for the investment, including how it will improve members' service and an analysis of expected impact on the profitability and capital adequacy requirements.</p> <p>(3) A Sacco society shall be required to dispose of the investment in property acquired for the purpose of future expansion, if the property remains unutilized for five years from the date of acquisition.</p> <p>(4) A Sacco society shall not make financial investments, including</p>	Limits on property, equipment financial assets

	<p>equities, collective investment funds, bonds, commercial papers and notes, or derivatives, in non-government securities; or a subsidiary; or a related entity; or in land, property and equipment; in excess of 30% of its core capital or 5% of its total deposits liabilities.</p> <p>(5) A Sacco Society shall not finance or extend a loan facility or guarantee in a subsidiary or a related entity without prior written approval from the Authority.</p> <p>(6) For purposes of these regulations a “related entity” includes a Sacco society or a co-operative society in which the Sacco society shares common membership or common directorship or common bond or associates of the Sacco society or joint ventures</p>	
48	<p>(1) A Sacco society shall carry out a due diligence on any investment it intends to undertake shall at the minimum observe consider:</p> <ul style="list-style-type: none"> (a) compliance with the approved investment policy; (b) investment cost and the Sacco society's financing ability; (c) expected rate of return, payback period and associated risks including legal, compliance, financial, environmental and mitigation mechanisms; (d) expected benefits to the entire membership; (e) ownership of the investment and any insider dealings; (f) any other matter as may be necessary to inform the investment decision <p>(2) Despite the provisions of paragraph (1), a Sacco society shall not undertake any investment:</p> <ul style="list-style-type: none"> (a) without prior written approval of the Authority; and (b) the investment proposal together with the due diligence report being presented to members in a duly constituted meeting for approval. <p>(7) A Sacco society shall keep all original investment documentation in a</p>	<p>Due diligence and approval of proposed investment</p>

	fire-proof safe and shall maintain a disaster recovery site.	
49	<p>(1) A Sacco society shall not acquire, sell or lease premises without the prior written approval of the Authority to or from the following:</p> <p>(a) a board member, or employee or immediate family member of any such individual.</p> <p>(b) businesses in which any of the persons named in (a) is an officer, partner or has an interest of greater than 10% in the entity or partnership.</p> <p>(2) All transactions with business associates or family members not specifically prohibited must be fully disclosed, conducted at arm's length and in the best interest of the Sacco society.</p> <p>(3)</p>	Restricted investment transactions
50	A Sacco society shall submit to the Authority a return on its investments at the end of every year to be received on or before the 15 th day January of the following year as set out in form to these regulations.	Investments return
PART IX: FINANCIAL PERFORMANCE REPORTING		
51	<p>(1) A Sacco society shall submit electronically to the Authority a return of the Statement of comprehensive income (income and expenditure statement) and a Statement of financial position showing results of its operations at the end of every quarter to be received on or before the 15th day of the following month as set out in Form to these regulations.</p> <p>(2) A Sacco society shall present its accounts and associated descriptions without deviation as set out in Forms to these regulations.</p> <p>(3) No Sacco society shall operate without a budget approved by a general meeting, and no expenditures may be incurred by a Sacco society outside the approved budget.</p>	Financial Return

52	<p>(1) A Sacco society may pay interest on the non-withdrawable deposits, and dividends on the shares to its members based on financial performance for the year; subject to meeting all regulatory requirements</p> <p>(2) A Sacco society may create a dividend equalization fund to serve as a buffer between desired dividend level and annual surplus realized</p> <p>(3) A Sacco society shall not finance payment of interest on non-withdrawable deposits, dividend, honoraria and bonuses from borrowed funds.</p>	Distribution of earnings to members
53	<p>(1) A Sacco society shall appoint an internal auditor who shall report to the Sacco Society's board of directors; and be responsible for the:-</p> <p>(a) Sacco Society's internal audit function; and</p> <p>(b) reviewing and reporting on the adequacy of the internal audit system and the financial matters of the Sacco society.</p> <p>(2) No person shall be appointed as an internal auditor of a Sacco Society, unless the person holds such professional qualifications in accounting and has such experience in deposit-taking business, as may be prescribed by the Authority.</p> <p>(3) A Sacco society may establish or outsource internal audit functions, provided that the person responsible for the internal audit function shall be a fully qualified accountant under the Accountants Act.</p> <p>(4) The board of directors shall report to the Authority, within fifteen days, the appointment, resignation, removal or termination of engagement contract, of the internal auditor</p> <p>(5) A Sacco society shall not remove or terminate the engagement contract of an internal auditor, unless a prior notification of the intention to do so, and the reasons therefore, have been submitted to the Authority.</p>	Internal Auditor

54	<p>(1) A Sacco Society's internal auditor shall responsible to the Board of Directors in:-</p> <ul style="list-style-type: none"> (a) leading the Sacco Society's audit function; (b) developing a comprehensive audit program and audit plan to cover all the activities and programs of the Society; (c) conducting timely risk-based internal audits and advise the Society's board of directors on all audit matters; (d) leading in the development and implementation of an internal risk based audit strategy and annual plan for the Society; (e) reviewing and advising the board on the Society's risk management framework; (f) assessing the reliability and integrity of financial, operating procedures and compliance with set policies; (g) reviewing the economic efficiency and effectiveness in the utilization of the Society resources so that its objectives are achieved; (h) driving operational improvements in the Society to improve overall efficiencies and enhance internal controls; (i) identifying level of conformance with established Laws, rules, regulations, policies, processes and procedures; (j) conducting special investigations on suspected internal frauds and corruption; (k) pursuing professional development opportunities, including internal and external training and professional association membership; (l) proactively keeping the board and management aware of emerging trends regarding internal controls, risk management, governance, and internal auditing; (m) preparing and presenting accurate internal audit findings report to the Society board on monthly basis; (n) providing practical and implementable solutions/ recommendations and reporting implementation progress to the board; 	<p>Specific duties of internal auditor and audit function</p>

	<ul style="list-style-type: none"> (o) liaising with external auditors during audit exercise; (p) promoting the highest standards of ethics and standards in the society, based on the principles of integrity, objectivity, competence and confidentiality. <p>(2) A Sacco Society's internal auditor shall be responsible to the Authority in</p> <ul style="list-style-type: none"> — (a) communicating any evidence of irregularities or illegal acts that have been committed by directors, employees or the Sacco Society itself; (b) informing the Authority, if there are grounds to believe that the Sacco Society is insolvent or that there is a significant risk that it may become insolvent; (c) reporting failure by the officers to provide all of the necessary information and documentation to enable the internal audit function to perform internal audit duties as prescribed; and (d) conducting any other responsibility as the Authority may direct 	
55	<ul style="list-style-type: none"> (1) A Sacco Society shall recommend at least three names to the Annual general meeting which shall select one Auditor to audit its accounts in accordance with section 45 of the Act. (2) The auditor shall be appointed at the annual general meeting from a list of auditors approved by the Authority. (3) Where at an annual general meeting no auditor is appointed, the Authority may appoint a person to fill the vacancy and the remuneration of the person so appointed shall be borne by the Sacco society. (4) A Sacco Society shall submit to the Authority the appointed name of 	<p>Appointment of external Auditor</p>

	<p>the external Auditor within thirty days after the annual general meeting together with certified copy of the minutes recording this appointment.</p> <p>(5) A Sacco Society shall not remove an external auditor in the course of the year of appointment, except with prior written approval of the Authority.</p> <p>(6) A request for removal of an external Auditor shall contain reasons for the proposed removal and in its consideration of such request the Authority shall obtain a written representation from the external Auditor.</p> <p>(7) A Sacco society shall change or rotate its external auditors every three years; provided that the Authority may waive this requirement on exceptional circumstances, upon written a request from the Sacco society.</p>	
56	<p>(1) A Sacco Society shall submit within three months after the end of the financial year submits submit for approval to the Authority its audited financial statements.</p> <p>(2) The audited financial statements to be submitted to the Authority pursuant to the Act shall be in four copies, or such other number of copies as the Authority may prescribe; and shall <i>inter alia</i>:</p> <ul style="list-style-type: none"> (a) disclose any material amount written off with a resolution of the general meeting of the Sacco society accompanied by satisfactory explanation; (b) have a signed statement of directors' responsibility; (c) the auditor's opinion; (d) statistical information; (e) cash flow statement; (f) statement of changes in equity; 	Submission of Audited accounts

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	<p>(g) system's audit report;</p> <p>(h) key Audit matters;</p> <p>(i) business sustainability report;</p> <p>(j) other disclosures as prescribed in these regulations</p> <p>(3) The board of directors shall not present the audited financial statements of a Sacco society to the members at the general meeting unless the accounts have previously been submitted and approved by the Authority.</p> <p>(4) The board of directors shall present the audited financial statements to a general meeting within four months after the end of the financial year in which the:</p> <p>(a) external auditor shall present his independent report and opinion; and</p> <p>(b) board of directors shall present to the members' any observations, directives, reservations or comments made by the Authority while approving the financial statements</p> <p>(5) A Sacco society shall display its audited accounts in accordance with Section 46 (1) of the Act, and in addition may post such statement of comprehensive income covering its activities and any other information prescribed, in both its website and that of the Authority</p> <p>(6) A Sacco society or an officer thereof, which violates the provisions of this regulation, shall be liable to a financial penalty not exceeding one hundred thousand shillings in accordance with Section 51 of the Act.</p>	
57	<p>The duties and responsibilities of the external auditor in relation to the Authority shall be to:</p> <p>(a) Communicate any evidence of irregularities or illegal acts that have been committed by directors, employees or the Sacco society itself.</p>	Responsibilities of external auditor to the Authority

	<ul style="list-style-type: none"> (b) Inform the Authority, if there are reasonable grounds to believe that the Sacco society is insolvent or that there is a significant risk that it may become insolvent. (c) Report failure by the officers to provide all of the necessary information and documentation to enable the auditor perform audit duties. (d) Provide an opinion as to whether Sacco society management practices and procedures are sufficient to safeguard members' assets and enhance its financial stability. 	
58	<p>(1) The primary responsibility of the Supervisory committee shall include but not be limited to:</p> <ul style="list-style-type: none"> (a) ensuring that internal controls are established and effectively maintained to achieve a Sacco society's financial reporting objectives; (b) reviewing internal controls including the scope of the internal audit program, the internal audit findings, and recommend action to be taken by management; (c) reviewing internal audit reports and their overall effectiveness, the scope and depth of audit coverage, reports on internal control and any recommendations and confirm that appropriate action has been taken; (d) ensuring that accounting records and financial reports are promptly prepared to accurately reflect operations and results; (e) reviewing management reports and reports from the internal and external auditors concerning deviations and weaknesses in accounting and operational controls; (f) monitoring the ethical conduct of the Sacco Society and considering the development of ethical standards and requirements, including: <ul style="list-style-type: none"> (i) effectiveness of procedures for handling and reporting 	Role of Supervisory Committee

	<p>complaints;</p> <p>(ii) reviewing any related party transactions that may arise within the Sacco Society;</p> <p>(iii) verifying that relevant plans, policies, and control procedures are established and properly administered;</p> <p>(iv) investigating members complaints and make recommendations for redress;</p> <p>(v) considering any matter of significance raised at the Annual General Meeting.</p>	
59	A person who contravenes the provisions of this Part commits an offence and if convicted is liable to a fine of one hundred thousand shillings or imprisonment for a term not exceeding twelve months or to both.	Sanctions
PART X: GOVERNANCE OF SACCO SOCIETIES		
60	<p>(1) Subject to the provisions of the Act, these regulations and any other applicable law, the supreme authority of a Sacco society shall be vested in the members who shall jointly and severally protect, preserve and exercise such authority in general meetings.</p> <p>(2) In exercising the responsibilities of the supreme authority, members shall jointly and severally ensure that only fit and proper persons are elected to the board of directors.</p> <p>(3) In electing the board of directors, members shall ensure compliance with the Constitution of Kenya, the Act, Regulations, the by-laws, vetting policy and other applicable laws.</p> <p>(4) The Board of directors shall consist of elected non-executive directors.</p>	Membership responsibility

	<p>(5) A member may be elected as a director of a Sacco society for a maximum of two consecutive terms of three years each, provided that a member who has served for two consecutive terms as a director, may be eligible for re-election to the board of directors only after a lapse of one term.</p>	
61	<p>(1) In the conduct of the affairs of the Sacco society, the board of directors shall exercise prudence and diligence of "<i>ordinary men of business</i>" and shall be held, jointly and severally liable for any loss occasioned by their actions which are contrary to the Act, these regulations, guidelines and directives of the Authority, Co-operative societies Act and rules, bylaws or the direction of any general meeting of the Sacco society or any other applicable law.</p> <p>(2) The Board of directors shall:</p> <ul style="list-style-type: none"> (a) ensure that management maintains proper and accurate records that reflect the true and fair position of the Sacco society's financial condition; (b) safeguard the assets of the Sacco society; (c) ensure the business of the Sacco society is conducted in accordance with its by-laws and any other resolutions made within the confines of the law and regulations; (d) ensure that the Sacco society functions effectively and that an adequate and effective internal controls and risk management systems putting in place appropriate policies including: human resource policy, credit policy, investment policy, savings policy, liquidity policy, information preservation policy, dividend policy, electoral and vetting policy and risk management framework; (e) ensure that the Sacco makes adequate provisions for known and probable losses likely to occur as required by these regulations.; (f) ensure that the Sacco society maintains a positive image within the industry and the economy as a whole; (g) develop and approve the terms of reference of various of committees of the Board; 	Directors duties and responsibilities

- (h) be responsible to the members for the preparation and publication of the Sacco Society's Annual Audited Financial Statements which shall be presented at an Annual General Meeting held not later than four months after the end of a financial year;
- (i) ensure effective co-ordination of the internal and external audit functions;
- (j) monitor the external auditor's independence and objectivity, taking into consideration the external auditor's relevant professional, capacity and regulatory requirements;
- (k) recommend three names of external auditors to the Annual General Meeting;
- (l) review with external auditors the scope of their annual audit plan, systems of internal audit reports, assistance given by management to the auditors and any findings and actions taken and determine auditor's remuneration;
- (m) develop and approve a Board Charter to guide the activities and operations of the Board and its committees;
- (n) ensure that the Board keeps and maintain a true and accurate record of the minutes of the meeting of the Board and the Board Committees;

(3) The Board of directors shall:

- (a) meet not more than fifteen times in a financial year and not more than two months shall lapse between the date of one meeting and the date of the next meeting; and
- (b) furnish the Authority with a certified copy of the minutes of its meeting on a semi-annual basis to be received not later than the 15th day of July and 15th day of January of each calendar year.

(4) The board of directors shall disclose in the audited financial statements, any compensation, fees and travel or meeting expense or reimbursement paid to each director of a Sacco society and each

	<p>member of the Sacco Society's Supervisory Committee, and shall be presented at the Annual General Meeting.</p> <p>(5) The board of directors shall create such number of committees as may be necessary to effectively discharge its functions including a Credit & Risk Management Committee, provided that the;</p> <ul style="list-style-type: none"> (a) number of board committees shall not exceed three; (b) board members shall not sit in more than two committees; (c) Chairman shall not sit in any of the board committees, but may attend any committee meeting upon invitation in writing by the committee; and (d) a board member shall not chair more than one committee <p>(6) A director shall attend board meetings regularly and shall automatically cease to hold office if he/she fails to attend three consecutive board meetings without permission or reasonable cause.</p>	
62	<p>(1) A member of the board of directors shall not receive remuneration in form of a salary or any fixed or periodic payments, in respect of services rendered to the Sacco Society, but may be reimbursed for necessary expenses incurred in course of discharging lawful duties to the benefit of the Sacco Society.</p> <p>(2) The reimbursements for necessary expenses incurred by directors in the course of discharging lawful duties shall be determined at such rates as the members shall approve during the general meeting.</p> <p>(3) Where the Authority determines that a director or any other officer of a Sacco society has received any remuneration or any other payments whatsoever contrary to this regulations, the Authority shall;</p> <ul style="list-style-type: none"> (g) direct the director or officer to forthwith refund to the Sacco society any such remuneration or payment with interest at the 	Directors not to be remunerated

	<p>prevailing Central Bank Rate per month, from the date of receipt of such remuneration or payment until payment in full; and</p> <p>(h) issue an order suspending the director or officer from the service of the Sacco society until the full refund with interest of such remuneration or payment.</p> <p>(4) In addition to the penalty imposed by the provisions of paragraph (3), the Authority may impose or institute any other appropriate supervisory enforcement action against the officer or the Sacco society in accordance with section 51 and 52 of the Act to protect the interest of the members.</p>	
63	A person shall not be permitted to hold the position of a director in more than one Sacco Society.	Limitation
64	<p>(1) Subject to obtaining prior written approval from the Authority, the board of directors shall appoint to, and may remove from, office the Chief Executive Officer of the Sacco Society.</p> <p>(2) The board of directors shall notify the Authority, within 15 days, the appointment, resignation and/ or removal of the Chief executive Officer, indicating the reasons for such resignation and/or removal</p> <p>(3) Despite the provisions of paragraph (1) the authority may remove from the service of the Sacco society, the Chief executive officer or any other officer of a Sacco society, in accordance with the Act and these regulations.</p>	Appointment of the Chief Executive Officer
65	<p>(1) The Chief Executive Officer shall be responsible to the board of directors for the day to day running of the matters of the Sacco Society, paying attention to:-</p> <p>(i) the implementation and adherence to the prescribed policies, procedures and standards;</p> <p>(j) systems that have been established to facilitate efficient</p>	Responsibilities of the Chief Executive Officer

operations and communication;

- (k) the strategies developed and employed to facilitate achievement of targets and objectives;
- (l) human resource management and development;
- (m) adherence to the established code of conduct; the Act, these regulations, guidelines and directives issued by the Authority; the Co-operative Societies Act and rules, the Sacco Society's By-laws and any other applicable laws.

(2) The Chief Executive Officer shall ensure that the board of directors are frequently and adequately apprised about the operations of the Sacco Society through presentation of relevant reports which shall cover, but not limited to the following areas:-

- (a) financial statements (monthly, quarterly and annual); showing current compared with past period actual performance, the budget compared with the actual expenditure and with explanations for any variances;
- (b) capital structure and adequacy;
- (c) delinquent loan list, and in particular growth in loans, loan losses, recoveries and provisioning;
- (d) Statement of comprehensive income (monthly, quarterly and annual) comparison with budgeted against actual;
- (e) sources and distribution on profile of deposits;
- (f) all insider dealings and non-performing insider loans if any;
- (g) reports on violation of the Act, these regulations, guidelines and directives issued by the Authority, the Cooperative Societies Act and rules, and any other applicable law, and the remedial actions taken to comply;
- (h) large risk exposures;
- (i) investment portfolio and its performance;
- (j) any regulatory reports, and internal reports; and
- (k) any other relevant areas to the Sacco society's operations.

66	<p>(1) All officers of a Sacco Society shall comply with the requirements of the Public Officer Ethics Act, 2003</p> <p>(2) A Sacco society shall prepare a Code of Conduct in the form set out in the Third Schedule for the approval of the Authority.</p> <p>(3) An officer who violates a Sacco society's code of conduct is liable to a penalty not exceeding fifty thousand shillings among other administrative sanctions.</p>	Code of conduct
67	<p>(1) A Sacco society shall not establish a subsidiary corporate body or legal entity without a written approval from the Authority, provided that the corporate entity shall not be a public company.</p> <p>(2) Where a Sacco Society establishes a subsidiary, the board shall develop a policy for representation in the subsidiary corporate body or legal entity provided that the Chairman shall not be a member of the board of the subsidiary company or legal entity</p> <p>(3) The Authority may issue specific or general guidelines or directives to be complied with by Sacco societies intending to establish subsidiary corporate or legal entities</p>	Directorship and subsidiaries
PART XI: CONSUMER (MEMBER) PROTECTION		
68	<ol style="list-style-type: none"> 1. A Sacco society shall accord equal opportunities to its members in accessing Sacco society's financial products and services. 2. No member shall be discriminated upon on the basis of race, gender, age, tribe, religion or political affiliation when accessing the financial products and services of the Sacco society 3. A Sacco society shall: 	Access to financial Products and Services

	<p>a) develop financial products and services aimed at improving the members' social-economic interest; and</p> <p>b) disseminate information about the financial products and services in a manner that is reasonably accessible to all its members.</p> <p>4. A Sacco society shall give advance written notice of at least one month before the effective date of the change to members affected by changes in the features of products and services. The notice given shall include, the affected product and service features, likely impact of the change and the effective date of change</p>	
69	<p>1. A Sacco society shall in writing or verbally disclose full and accurate terms and conditions for subscription to its shares; or the mobilization of its non-withdrawable deposits; or both to its members and potential members.</p> <p>2. A Sacco society shall upon opening a Shares and Non- Withdrawable Deposit account for a member, disclose all the terms and conditions for operating the account including savings frequency, tariffs, penalties, commissions, charges and fees.</p> <p>3. In case of a joint or group account, disclosures may be made to any one of the officials.</p>	Shares and Non-Withdrawable deposits disclosures
70	<p>1. A Sacco society shall at all times maintain the confidentiality of the members accounts and except as provided in the Act and these regulations, shall not disclose the details of any such account without a written consent of the member</p> <p>2. A Sacco society shall provide each member with a free statement for each account that provides adequate detail of each transaction made during the period on a quarterly basis or upon request by a member.</p> <p>3. The Sacco society may furnish the statement referred to in paragraph 2 through an electronic media to the members' disclosed electronic address.</p>	Members' account confidentiality

	<p>4. A Sacco society shall prior to making any changes to a members' account give an advance written notice of at least one month to the affected members. The notice given shall include, the affected account features, likely impact of the change and the effective date of change</p> <p>5. Any member offended by the above changes shall be granted opportunity to opt out of the Sacco membership through prescribed process</p>	
71	<p>1. A Sacco Society shall disclose at a minimum the following lending terms and legal obligations between the parties as applicable:</p> <ul style="list-style-type: none"> a) amount to be financed; b) finance charges, including interest rate, fees and any other charges that may be imposed; c) interest computation method (variable, fixed, flat or reducing) and the date interest charges begin to accrue; d) conditions for refinancing of loans; e) frequency of issue of statements; and f) Collateral required to secure the lending. <p>2. A Sacco society shall disclose the terms and conditions of a new loan it refinances to a member.</p> <p>3. A guarantor shall adequately be informed of the nature of the liability prior to signing an agreement creating guarantor liability</p> <p>4. A Sacco society shall inform a guarantor of a defaulted loan within one month after the loan has gone into default</p> <p>5. A guarantor to a loan facility shall upon request be granted full access to the performance of the guaranteed loan</p>	Fair Credit Practices
72	<p>1. A Sacco society shall disclose and share with members:</p> <ul style="list-style-type: none"> a) the method employed to calculate the dividend on shares and 	Dividend on shares and Interest on Non

	<p>interest on Non Withdrawable deposits.</p> <p>b) frequency of the dividend or interest calculation and the time the dividends or interest are paid or credited to an account.</p> <p>2. For the avoidance of doubt shares shall attract dividends so long as the member's share capital remains in the Society and Non withdrawable deposits shall attract interest on a prorata basis up to the time they are refunded</p> <p>3. For non-withdrawal Savings, a Sacco society shall disclose the current interest rate and annual percentage yield as established by the Board Members and the method used to calculate the interest.</p> <p>4. A Sacco society shall fully comply with the requirements of Unclaimed Financial Assets Act with regard to any unclaimed dividends on shares or interest on members' withdrawable deposit or both.</p>	Withdrawable deposits
73	<p>1. Definition: is a commercial message in any media that promotes directly or indirectly a financial transaction by a Sacco society.</p> <p>2. Advertisement on shares and non-withdrawable deposits shall not be misleading or inaccurate and shall not misrepresent the Society's products and services</p> <p>3. An advertisement concerning credit shall not be misleading or inaccurate and shall not misrepresent the Sacco society credit products and services. If an advertisement for credit states specific credit terms it shall state only those terms that actually are or will be offered by the Sacco society.</p> <p>4. Advertisement shall always state the interest rate charged on a loan, if the rate changes during the loan period, the advertisement shall state that fact</p>	Advertisement Disclosures
74	<p>1. A Sacco Society shall be limited to the interest it recovers from a debtor with respect to a delinquent loan up to the limit not exceeding the amount owing when the loan became delinquent.</p>	Fair Debt Collection Practices

2. A debt collector shall not harass, abuse or oppress any member in connection with the collection of a debt or engage in any conduct such as:

- a) use of threat, violence or other criminal means to physically harm a member, reputation, or property of any person;
- b) use of obscene or profane language; or
- c) engaging any person in conversation or in person with the intent to annoy, abuse, or harass until they repay the debt.

3. A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt such as-

- c) the false representation of the character, amount, or legal status of any debt;
- d) the false representation or implication that any individual is an attorney or that any communication is from an attorney;
- e) the threat to take any action that cannot legally be taken or that is not intended to be taken; and
- f) Communication or threatening to communicate to any person credit information that is known to be false.

4. A Sacco society shall only engage a duly authorised person as its debt collector

5. A debt collector shall not collect interest, fees, charges, or expenses unless they are mentioned in the loan agreement.

75

1. A Sacco society shall have a documented communication policy to guide in disseminating information to members

2. A Sacco society shall furnish its members electronically or otherwise on annual basis with copies of its by-laws, audited financial statements and approved policies.

Member Education and empowerment

	<p>3. A Sacco society must hold at least one members' education day in a year to educate and update members on its products and services, members' rights, other emerging issues.</p> <p>4. A Sacco society shall develop member service charter which shall at least prescribe the turnaround time for service delivery, recourse and feedback mechanism.</p> <p>5. Every product and services developed and promoted by a Sacco society shall be accompanied by information brochures detailing their features, tariffs; which shall be issued to members and conspicuously displayed for access by members</p> <p>6. A Sacco society shall accord its members reasonable opportunity to access all material information about its financial products and services</p>	
76	<p>(1) A Sacco society shall establish effective procedures for receiving, considering and responding to member complaints which at the minimum be;</p> <ul style="list-style-type: none"> a) member friendly; b) easily accessible; c) capable of addressing the complaints adequately; d) able to provide prompt feedback to the complainant; e) easily provide an audit trail report; <p>(2) A Sacco society shall adopt, document and disclose to its membership, the procedures for the proper handling of complaints and ensure that appropriate remedial action is taken on the complaints promptly.</p> <p>(3) The complaints procedure of a Sacco society shall set out the process for dealing with complaints, including the –</p> <ul style="list-style-type: none"> (a) apportionment of responsibility for the actions that led to the complaint including to persons not specifically named in the complaint; (b) timeframe for dealing with a complaint; 	Member Complaints' handling procedures

	<p>(c) timeframe within which to inform the complainant of progress in dealing with the complaint, which shall not be more than three months;</p> <p>(d) right to reference or appeal to the Authority or the tribunal where the complaint cannot otherwise be resolved.</p> <p>(4) A Sacco society shall designate an officer to review and investigate all complaints lodged by members and recommend appropriate remedial action to the Chief Executive officer of the Sacco society.</p> <p>(5) A Sacco society shall handle complaints in a fair, appropriate and timely manner, and shall inform the members of the outcome in writing.</p> <p>(6) A Sacco society shall, depending on the nature of the complaint, provide where a complaint is justified, appropriate restitution and address the weaknesses in its internal systems that led to the action causing the complaint.</p> <p>(7) A Sacco society shall document all the actions it has taken under the complaints procedure.</p> <p>(8) A Sacco society, or an officer of a Sacco society, who without cause, contravenes or causes a Sacco society to contravene, the provisions of this regulation shall be liable to a financial penalty not exceeding a sum of one hundred thousand shillings.</p>	
77	<p>(1) A Sacco society shall maintain an accurate and up to date complaints register showing the-</p> <p>(a) date when the complaint is received;</p> <p>(b) member or any other person from whom a complaint was received;</p> <p>(c) nature of the complaint;</p> <p>(d) officer handling the complaint;</p> <p>(e) officer against whom the complaint was made or who was responsible for the action that led to the complaint;</p>	Complaints register

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	<p>(f) progress in handling the complaint;</p> <p>(g) way the complaint was resolved; and</p> <p>(h) time it took to resolve the complaint.</p> <p>(2) A Sacco society may also maintain a summary register of complaints.</p> <p>(3) A Sacco society shall;</p> <p>(a) immediately and in all events within twenty four hours, notify the Authority of any complaint that is still unresolved, three months after it was received; and</p> <p>(b) submit a quarterly report of the complaints handled in such manner and format as the Authority may determine or direct</p> <p>(4) A Sacco society, or an officer of a Sacco society, who without cause, contravenes or causes a Sacco society to contravene, the provisions of this regulation shall be liable to a financial penalty not exceeding a sum of one hundred thousand shillings.</p>	
78	<p>(1) Any dispute between a Sacco society and its member or other persons may be settled amicably through alternative dispute resolution mechanisms.</p> <p>(2) Where the dispute under sub-regulation (2) is not amicably settled, such a dispute may be referred to the Authority for alternative dispute resolution; or to Co-operative Tribunal pursuant to section 67(3) of the Act, at the instance of either party</p> <p>(3) A Sacco society may conduct member satisfaction survey to ascertain the level of member satisfaction with its provision of products and services.</p>	Rights of appeal or referrals
PART XI: REGULATION		
79	(1) The Authority shall be responsible for supervising Sacco societies to ensure compliance with the provisions of the Act, these Regulations, any	Inspection of Sacco

<p>guidelines or directives issued by the Authority pursuant to the Act; Sacco society's bylaws, policies, procedures and any other applicable law.</p> <p>(2) The Authority shall have unlimited access to all premises and records of a Sacco Society.</p> <p>(3) Without prejudice to the generality of paragraph (2), the Authority may in the supervision of Sacco Societies:</p> <ul style="list-style-type: none"> (a) enter any premises of the Sacco Society or any premises in which it is believed on reasonable grounds that books, records, accounts or documents relating to the Sacco Society's business are kept; (b) require any officer, employee or agent of the Sacco Society to produce any of the institution's accounting, financial and non-financial records or documents; (c) open or cause to be opened any strong room, safe or other facility in which there are any of the Sacco Society's securities, books, records, accounts or documents; (d) examine, make extracts and copy any of the Sacco Society's securities, books, records, accounts or documents. <p>(4) The Authority may require a Sacco Society to furnish any reports it may deem necessary and in such a form as the Authority may prescribe.</p> <p>(5) In inspecting a Sacco Society, the Authority shall satisfy itself with regards to:</p> <ul style="list-style-type: none"> (a) compliance with capital adequacy requirements; (b) the composition of assets, liabilities and equity accounts; (c) the quality of assets; (d) risks management framework; and (e) any other matter which in the opinion of the Authority is relevant to the performance of its mandate under the Act, these Regulations and 	<p>societies</p>
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	<p>any other applicable law.</p> <p>(6) If the Authority is dissatisfied with the reports, it may request for additional information from the Sacco Society or make an on-site inspection.</p> <p>(7) The Authority may, at any time and from time to time cause an on-site inspection to be made by any person authorised by it in writing, of any Sacco Society and of its books, accounts and records.</p> <p>(8) Where the Authority conducts an onsite inspection, the Authority shall compile a report addressing all matters in paragraph 5.</p> <p>(9) The Authority shall present the report and the proposed corrective actions to the Sacco society.</p> <p>(10) The board of directors of Sacco society shall within fifteen days of receipt of the report pass a resolution on the implementation of corrective actions and submit a deficiencies restoration plan to the satisfaction of the Authority.</p> <p>(11) All information obtained in the course of regulating and supervising a Sacco Society shall be treated as confidential and used solely for the purpose of the Act and these regulations.</p> <p>(12) The Authority shall after every inspection, compile a report which shall highlight the performance of a Sacco Society versus the set standards.</p>	
80	<p>(1) The Authority may use supervisory enforcement actions to provide an outline of specific corrective or remedial measures including appropriate timeframes and goals for achievement of compliance</p> <p>(2) The Authority shall prescribe any remedial action that it considers appropriate in addressing lapses or violations.</p> <p>(3) The Authority may consider the use of all or any enforcement actions</p>	Enforcement Actions

	<p>which it shall communicate to each individual Sacco Society or officers of a Sacco society as and when need arises.</p> <p>(4) Where the Authority has reasonable grounds to believe that an officer of a Sacco Society is engaged or is likely to engage in any act or practice which has occasioned or is likely to occasion a contravention of the provisions of the Act or any regulations or any other law in any manner detrimental to or not in the best interest of its members or of the members of the public, or the financial soundness of the Sacco Society, or has committed an offence, the Authority shall issue administrative directives regarding measures to be complied with or impose such sanctions to be taken against the said officer as it may deem fit as provided for under these Regulations</p>	
81	<p>(1) In deciding which administrative action to be taken, the Authority shall consider the following:</p> <ul style="list-style-type: none"> (a) the financial condition of a Sacco society; (b) the members' interests; (c) the interest of the management and the board of directors in the continuation of the Sacco Society business; (d) the ability of the management and directors to manage the Sacco Society effectively; (e) the contribution of individual officers of the Sacco society to any non-compliance; and (f) the local and macro-economic conditions. <p>(2) The Authority may pursue any or all of the following administrative sanctions against a Sacco Society or its officers:</p> <ul style="list-style-type: none"> (a) prohibition from declaring or paying dividends and/or interest on non withdrawable deposits; (b) prohibition from expanding existing activities or engaging in new activities; (c) suspension of lending, investment and credit extension operations; (d) prohibition from acquiring, through purchase or lease, additional property and equipment; (e) prohibition from accepting further non withdrawable deposits or other 	Administrative Sanctions

	<p>lines of credit;</p> <p>(f) prohibition from declaring or paying bonuses, salary incentives, severance packages, management fees or reimbursement of expenses to officers; and</p> <p>(g) Assess and impose financial penalties.</p>	
82	<p>(1) A Cease and Desist Order shall be issued where the Sacco Society has:</p> <p>(a) engaged or continues to engage in any unsafe business practice; and</p> <p>(b) violated or continues to violate the Act, these Regulations, or any guidelines and directives issued by the Authority.</p> <p>(2) The order shall state the specific actions that shall be ceased, who is to cease from doing the action, and the time period.</p> <p>(3) If the necessary corrections are not made, the Authority may invoke the provisions of section 51 of the Act to safeguard a Sacco Society's assets and impose penalties as stipulated in the Act.</p> <p>(4) The order shall be signed by the Authority and served upon the board of directors of the Sacco Society.</p>	The cease and desist order
83	<p>(1) The Authority may prohibit any individual seeking to be a director or employee of a Sacco Society, if the individual:</p> <p>(a) has been charged or convicted with a crime involving monetary loss, fraud, perjury; or</p> <p>(b) has breached any fiduciary relationship with a financial institution;</p> <p>(c) is adversely mentioned in an inquiry report under the Cooperative Societies Act or an inspection report under the Act and these regulations; an investigation report or inquiry by any investigative, law enforcement, tax or financial sector regulatory agency;</p> <p>(d) has been charged with any offence under the Anti-Corruption and Economic Crime Act or Public Officers Ethics Act or Leadership and</p>	Prohibitions and removal of officers

	<p>Integrity Act or in relation to any violation of Chapter 6 of the Constitution of Kenya</p> <p>(e) is likely to pose a threat to the interest or threaten to impair public confidence in the Sacco Society.</p> <p>(2) A person against whom disciplinary action has been taken by way of removal from office shall be ineligible to hold office in any Sacco Society for a period of three years or such other period as may be determined by the Authority.</p> <p>(3) The Authority may direct a Sacco Society not to conduct business or discontinue conducting business with an individual or legal entity that has been charged or adversely mentioned in connection with a crime involving monetary loss, fraud, perjury, breach of contract or a crime which may pose a threat to the interest of the Sacco Society or threaten to impair public confidence in the Sacco Society.</p> <p>(4) The prohibition order shall be addressed to the Sacco Society board of directors and the prohibited party, stating specifically the reason for the prohibition and that it shall take immediate effect.</p> <p>(5) The Authority or Sacco Society may remove an officer from office, if the officer—</p> <ul style="list-style-type: none"> (a) directly or indirectly violates the Act, these Regulations, guidelines, directives or the Sacco society's bylaws; (b) engages or participates in any unsafe or unsound practice in connection with the Sacco Society; (c) has a non performing loan or becomes a bad debtor; and (d) commits any act, or practice or fails to take appropriate action, thereby committing a breach of fiduciary responsibility, resulting in or likely to result in— <ul style="list-style-type: none"> (i) a Sacco Society suffering financial loss or other damage; (ii) members' interest being prejudiced; or (iii) any party receiving unfair financial gain or other benefit. 	
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	<p>(6) A notice to remove an officer from office by the Authority shall contain specific statement of facts constituting the grounds for removal and shall take immediate effect.</p> <p>(7) A person aggrieved by the removal or prohibition order may appeal to the Cabinet Secretary.</p>	
84	<p>(1) The Authority shall place a Sacco Society under statutory management if the Sacco Society-</p> <ul style="list-style-type: none"> (a) willfully and continuously fails to comply with guidelines or directives issued by the Authority; (b) has abandoned its core business or does not operate in the members' best interests; (c) is totally incapable of coping with severe financial problems that need to be brought under control; (d) has engaged in unsound financial practices resulting in massive erosion of capital; or (e) if a petition is filed for winding up of the Sacco Society. <p>(2) A Sacco Society's financial soundness and the member's interests shall be considered threatened if the Sacco Society is unable to meet its obligations to depositors and creditors or if the core capital falls below fifty percent of the regulatory requirement.</p> <p>(3) All expenses associated with the statutory management shall be met by the Sacco society.</p>	<p>Statutory Management</p>
85	<p>(1) A person shall not be appointed as a statutory manager of a Sacco Society, if that person is a member of the Sacco Society, a creditor of the same or is related to or is an immediate family member to an officer or former officer.</p>	<p>Appointment of Statutory Management</p>

	<p>(2) Effective from the moment the statutory management is ordered, the following shall apply-</p> <ul style="list-style-type: none"> (a) the statutory manager shall operate on behalf of the Sacco Society; (b) all powers of the general meeting of members, board of directors and management shall be suspended and transferred to the statutory manager; (c) no attachment or lien except a lien created by the Authority, shall attach to any property or asset of the Sacco Society concerned as long as the statutory management stands; (d) any gratuitous transfer of any asset of the Sacco Society made within the period of one year before the statutory management shall stand revoked and all such assets shall be surrendered to the Authority; (e) any lending to an officer or related party which is found to have been advanced on preferential terms or without adequate security made within twelve months prior to the statutory management shall be recalled, and that officer or person related to the officer shall immediately refund the monies advanced and pay any interest due. 	
86	<p>(1) Save as provided in the Act, the Authority reserves the right to impose the following penalties in accordance with section 51(m) of the Act:</p> <ul style="list-style-type: none"> (a) An officer of a Sacco Society who, causes a Sacco society to fail to submit reports and information required by the Authority commits an offence and is liable to a penalty not exceeding Kenya shillings one hundred thousand. (b) An officer of a Sacco Society who causes a Sacco society to submits incorrect reports and information to the Authority commits an offence and is liable to a penalty not exceeding Kenya shillings one hundred thousand per incident 	<p>Assessment of financial Penalties</p>

(2) Where the Authority determines an officer of the Sacco society has willfully occasioned or caused the Sacco society to suffer loss or potential loss, the Authority shall assess and impose a financial penalty in accordance with section 51(m) against the officer in the sums equal to such loss or potential loss that the Sacco society has suffered.

(3) Where the officer fails to pay the assessed sum, the Authority may;

- (a) direct the immediate removal of the officer from the service of the Sacco Society; or
- (b) prohibit the officer from serving in any Cooperative Society until the penalty is paid in full; or
- (c) institute civil recovery proceedings of the penalty in the tribunal

(4) An officer of a Sacco Society who willfully occasions or causes a Sacco society to violet a cease and desist order, guidelines or directives issued by the Authority, is liable to a penalty not exceeding Kenya shillings one hundred thousand.

(5) The penalty order shall be issued by the Authority to be served upon the guilty party and a copy thereof to the board of directors, stating the reason for and the amount.

(6) Where the Authority imposes a financial penalty against the Sacco society or an officer of the Sacco society, the assessed amount shall be paid through an electronic funds transfer in favour of the Authority within 30 days upon service of the assessment notice.

(7) A Sacco society or an officer who is aggrieved by any assessment of a financial penalty made by the Authority, may appeal to the Cabinet Secretary.

PART XII: INFORMATION SECURITY, PRESERVATION AND BUSINESS CONTINUITY

87 The board of directors of a Sacco society shall be responsible for the

Information

	establishment of an information preservation policy which shall address information preservation and business continuity	preservation
88	<p>(1) A Sacco Society shall have a robust Management Information System (MIS) in place. The MIS shall have the following features at minimum;</p> <p>(a) supports flexible product configuration and runs on a relational database;</p> <p>(b) captures comprehensive member data including date of birth, gender, residential physical address, postal address occupation, marital status, photographs and signatures;</p> <p>(c) offers a complete overview of a member's data including account details and allows drill-down to individual transactions and postings;</p> <p>(d) allows searching for a member using different attributes such as names, national ID number, KRA PIN, Member number, and account number;</p> <p>(e) provides the transactional features to manage shares and deposits;</p> <p>(f) supports multiple methods to calculate interest including declining balance, annuity and balloon payment etc;</p> <p>(g) supports loan appraisals given the member's shares, salary income, turnovers, deductions etc;</p> <p>(h) enables member service by presenting personal details as well as information on accounts, loans, guarantors and collateral;</p> <p>(i) allows Transactions to be posted real time to the general ledger as configured and which accounts are to be debited or credited for each transaction;</p>	Minimum features of MIS

	<ul style="list-style-type: none"> (j) allows classification of loans and advances by performance and purpose; (k) allows for comprehensive reports module with the capability to design new reports and allow filtering and grouping of data; (l) ability to produce detailed statement of financial position, statement of comprehensive income, statement of changes in equity, cash flow statement and other prescribed regulatory statements; (m) supports Scheduling and export of reports to other formats including Microsoft Excel, Word, CSV and PDF. (n) capable of integration with other payment systems or applications; (o) capable of handling imported data from XLS, CSV and other formats; (p) supports automated and manually triggered archiving of data; (q) supports user profile and access rights management. (r) capable of providing accurate and real time audit trail of all transactions; (s) allows daily data back-up to an off-site location/recovery centre; (t) capable of rolling back to pending transaction and informs the user accordingly in case of a hardware failure or system crash; <p>(2) A Sacco society may from time to time, and shall when directed by the Authority to carry out a comprehensive management information systems audit to establish vulnerabilities, weaknesses and risk exposures.</p> <p>(3) A Sacco society shall;</p>
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	<p>(a) submit to the Authority a copy the comprehensive management information systems audit report within thirty days of receipt of the report, without any alterations thereon; and</p> <p>(b) an implementation plan detailing the actions to be taken, who is responsible and the time frame.</p>	
89	<p>(1) A Sacco Society shall not engage the services of third party providers or vendors for its management information systems and infrastructure unless due diligence has been undertaken to assess the providers:</p> <p>(a) compliance with legal and industry standards including registration, tax compliance and membership/affiliation to professional associations;</p> <p>(b) technical capacity to offer the intended services;</p> <p>(c) governance structures that assures continuity including ownership structure, technical staffing level;</p> <p>(d) financial condition including audited financial of for the last three years;</p> <p>(e) cyber security measures in place including cyber security audit, monitoring cyber-attacks; and</p> <p>(f) risk management measures;</p> <p>(2) The authority may issue guidelines or circulars prescribing any other feature that a service provider shall comply with before or prior of being engaged by a Sacco Society.</p>	Due diligence on third party service providers
90	<p>(1) A Sacco society shall keep copies of vital records in a safe location. Such records shall include but not limited to copies of loan agreements, copies of member application forms, copies of titles for property and equipment owned by the Sacco society; copies of securities pledged by borrowers; copies of external borrowing agreements and insurance policies.</p> <p>(2) A Sacco society shall copy all its critical and vital information to a memory device and store in a fireproof safe on a weekly basis provided a Sacco society shall ensure offsite backups are undertaken on weekly basis.</p>	Critical information and vital records

	<p>(3) A records log shall be maintained at the Sacco society showing the type of records stored, location of storage, the time the records were stored and the person who sent the records for storage as well as the person who did the backup.</p> <p>(4) For purposes of these regulations critical information and records means minimum records required to restore Sacco business operations in the event of a disaster. Such records will include but not limited to a list of shares, deposits and loan statements for each member's account; investments and bank balances; and a financial report which lists asset, liability and equity accounts.</p> <p>(5) A Sacco society shall establish a secure archive for its physical records for future reference. The archive shall be installed with smoke detectors, fire extinguishers, protected from rodents and water or moisture</p>	
91	<p>(1) A Sacco society shall have a written disaster preparedness plan approved by the board.</p> <p>(2) A Sacco Society's Disaster preparedness plan shall take into account the size and complexity of the Sacco society's business operations and other activities, and at minimum shall address;</p> <p>(a) the interval at which the plan shall be reviewed;</p> <p>(b) identification of the critical information needed to operate the Sacco society in case of disaster;</p> <p>(c) the person responsible for implementing the plan;</p> <p>(d) the duties and responsibilities of the employees who are responsible for assessing the situation, providing information and establishing member service as quickly as possible;</p> <p>(e) identification of alternative locations equipped with the necessary equipment to maintain critical operations for a sufficient time period in the event of a disaster;</p> <p>(f) intervals of testing the back-ups and the plan;</p> <p>(g) a security plan designed to protect the Sacco society's premises</p>	Disaster preparedness and business continuity

	<p>from robberies and burglaries which shall be reviewed periodically;</p> <p>(h) a suitable and reliable standby power backup.</p>	
PART XIV: MISCELLEROUS PROVISIONS		
92	<p>(1) A Sacco society shall not amalgamate with another Sacco society; and a Sacco society may not divide itself into two or more Sacco Societies, without prior written approval of the Authority</p> <p>(2) An application for approval amalgamation or division of a Sacco Society shall be accompanied by-</p> <p>(a) resolutions of general meetings of the Sacco society or Sacco Societies on the proposed amalgamation or division;</p> <p>(b) due diligence reports on Sacco Societies proposed to be amalgamated including their financial soundness, legal and regulatory compliance, products and services, ICT and human capacity;</p> <p>(c) An amalgamation or division plan detailing probable asset or share ratios, share adjustments designation of continuing Sacco Society, its by-laws, state of guarantee of member deposits, non-conforming assets and liabilities and provisions for notification and payment of creditors;</p> <p>(d) the amalgamation agreement;</p> <p>(e) the proposed notice of Special General Meeting;</p> <p>(f) financial statements and statistical report in respect of the preceding months;</p> <p>(g) Combined statement of financial condition;</p> <p>(h) Application for guarantee of members' deposits</p>	Amalgamations and divisions

	<p>(3) The Authority shall approve or deny the application for amalgamation or division within thirty days of receiving all necessary and required information.</p> <p>(4) Where the Authority gives its approval, each of the Sacco societies shall, not later than thirty days thereafter, notify all the creditors of the forthcoming changes in writing, post the information in all Sacco Society offices and place the relevant information in a national newspaper of wide circulation</p>	
93	<p>(1) Where a Sacco society is required to file or submit or furnish the Authority with any statement, returns, document, data or other information; such statement, returns, document, data or other information, shall unless otherwise directed by the Authority be filed, furnished or submitted through an electronic filing system established by the Authority in accordance with Section 53A of the Act</p> <p>(2) The Authority may from time to time issue authentication access codes to Sacco societies to access the electronic filing system, and shall where necessary cancel authentication access codes.</p> <p>(3) The board of directors of a Sacco society shall be responsible to the Authority for:</p> <p>(a) identifying the authorized officers of the Sacco Society who shall be issued with the authentication access codes, provided that the:</p> <p>(i) designated authorized officers shall be a senior officer of the Sacco society who shall authenticate the accuracy, correctness and completeness of any statement, returns, document, data or other information filed, furnished or submitted through an electronic filing system; and</p> <p>(ii) Chief Executive officer of the Sacco society shall at all times be a mandatory designated authorized officer; and</p> <p>(iii) the designated authorized officers shall not exceed three (3) officers of the Sacco society at any time.</p>	Electronic submission of returns and information

	<ul style="list-style-type: none"> (c) any changes or intended changes in the Sacco Society's authorized officers, including the Chief Executive officer; (d) ensuring that the authentication access codes issued to authorized officers are not misused to the detriment of the Sacco Society or the Authority or any other person 	
94	<p>(1) These regulations shall;</p> <ul style="list-style-type: none"> (a) upon commencement be deemed to apply to every Sacco society which is carrying out the specified non-deposit taking business, and (b) such a Sacco society shall submit to the Authority a written application for authorization within six months from the date of commencement of these regulations. <p>(2) The Authority shall consider an application made pursuant to paragraph (1) within ninety (90) days of receipt of such application, and issue;</p> <ul style="list-style-type: none"> (a) an authorization certificate in accordance with these regulations, if the Sacco society has meet the prescribed capital adequacy and other prescribed operational requirements and infrastructure; or (b) a provisional authorization certificate for a period not exceeding twelve (12) months, subject to such terms and conditions as may be imposed or endorsed thereon, if the Sacco Society has not attained the prescribed capital adequacy and other prescribed operational requirements or infrastructure. <p>(3) A Sacco society issued with a provisional certificate in accordance with paragraph (2)(a) shall, in addition to any terms or conditions imposed or endorsed thereon by the Authority, on or before the expiry of twelve months after the authorization.</p> <ul style="list-style-type: none"> (a) build its capital adequacy so as to attain the prescribed 	<p style="text-align: center;">Transitional provisions and provisional authorization</p>

	<p>requirements; and</p> <p>(b) put in place all the prescribed operational requirements and infrastructure.</p> <p>(4) Where a Sacco society issued with a provisional certificate in accordance with paragraph (2)(a) fails to build its capital adequacy so as to attain the prescribed requirements and other operational requirements and infrastructure as provided in paragraph (3), the Sacco Society shall immediately cease undertaking specified non-deposit taking business, and the Authority shall invoke the provisions of regulation (8) of these regulation</p> <p>(5) Despite the provisions of paragraph (1) the Authority may, at any time and from time to time, and shall, if so directed by the Cabinet Secretary, cause an inspection to be made by any person authorized by the Authority in writing of any Sacco society in Kenya and of its books, accounts and records, to determine if the Sacco society is conducting specified non-deposit-taking business.</p> <p>(6) A Sacco society which fails to make an application for authorization within six months commits an offence</p>	
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