



SACCO Briefs

MANAGERS AND BOARD MEMBERS: IMPLICATIONS OF THE SACCO SOCIETIES ACT AND REGULATIONS

How does the new regulatory framework affect SACCOs?

The new legal framework, comprising of the SACCO Societies Act of 2008, ("the Act") and the SACCO Societies (Deposit-taking SACCO Business) Regulations of 2010, ("the Regulations"), currently applies to SACCO societies ("SACCOs") that conduct deposit-taking business as defined in the law.¹ That is SACCOs operating Front Office Savings Activities ("FOSA") only.

Our SACCO is already conducting deposit-taking business (FOSA). What changes do we expect?

There is the entry of a new regulator, the SACCO Societies Regulatory Authority (SASRA), which has been mandated to license and supervise your SACCO. The need for closer oversight is that accepting withdrawable deposits is particularly considered a high-risk activity as depositors risk losing their money.

Although registration of SACCOs still remains under the Commissioner for Co-operative Development in accordance with the Co-operative Societies Act, you will also be required to apply to SASRA for an annual renewable licence to continue operating the FOSA. All SACCOs operating FOSAs will be required to apply for a licence from SASRA before 17th June 2011.

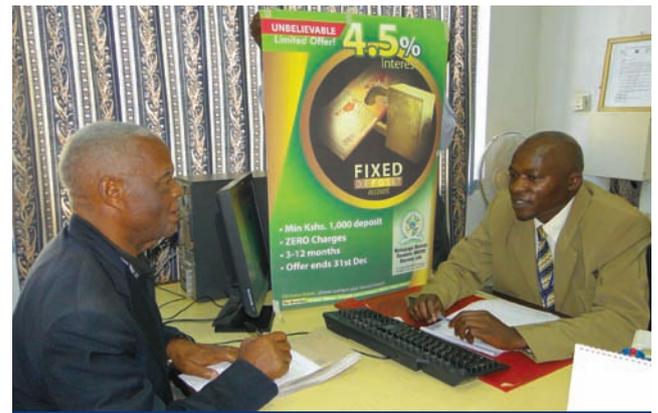
We are in the process of setting up a SACCO operating FOSA or introducing FOSA as a new service of our existing SACCO; when do we have to apply for a licence?

For new SACCOs or those intending to provide FOSA for the first time, the stipulated transition period until 17th June 2011 shall not apply. They shall be required to apply for and be granted a licence by SASRA before they can start operating the FOSA. Essentially, the application procedure is similar to that of SACCOs that are already operating FOSAs.

What are the main licensing steps for SACCOs?

Acquiring a licence will follow through a five-stage process sequenced as follows:

- The SACCO will submit to SASRA, the licence application forms to be found in the First Schedule of the Regulations and the required accompanying documents;²
- If satisfied, SASRA will issue a Letter of Intent, upon which the SACCO will be required to set up its business premises, put in place a management information system (MIS), and develop a comprehensive risk management framework;
- Once the SACCO has completed (b) above, SASRA will then conduct an on-site inspection within 30 days, and;



A member negotiates fixed deposit interest rates with a SACCO Manager.

- If satisfied, SASRA will issue a Letter of Compliance to the SACCO within another 30 days;
- SASRA will then issue a licence upon payment of the licensing fee of KShs 50,000 for a head office and KShs 20,000 for every branch held.

Note: The licence to conduct deposit-taking business will be renewed annually.

What are the specific licensing requirements for SACCOs?

The Act (Section 24) and Regulations (Section 4) detail the information required for licensing.

The following is a non-exhaustive list of the major requirements:

- **Capital:** SACCOs have to provide a minimum core capital of KShs 10 million as shown in their financial statements. However, newly founded SACCOs have to provide this evidence through submission of bank statements. All SACCOs have to comply with three capital adequacy ratios as stipulated in the Regulations. SACCOs that were already operating FOSAs by June 2010 have been granted a four-year transition period to comply with these capital adequacy requirements.³
- **Fit and proper test:** Both directors and senior management (or departmental heads) will be subject to a "fit and proper" test, vetting their moral and professional suitability to be on the board and to manage the SACCO society, respectively.
- **Business plan:** A detailed four-year business plan and feasibility study including projected financial statements are required.

Kindly note that all these requirements only apply to SACCOs conducting deposit-taking business or intending to start a FOSA.

¹ Both are available for download at <http://www.sasra.go.ke>

² SASRA's website includes a section "Resources" with more detailed information on licensing and other topics such as capital adequacy requirements.

³ SASRA's website includes a brief on "Capital Adequacy for Deposit Taking SACCOs."

How long will it take to acquire a licence from SASRA from the date of application?

As already stated, licence processing is a detailed and elaborate process. The period it takes to get a licence entirely depends on the completeness of the licence applications, how fast the SACCO responds to any queries raised by SASRA and possible deficiencies with regard to certain licensing requirements (e.g., in the areas of information systems and internal controls).

SASRA estimates that it will take an average of four (4) months for a SACCO that fully complies with all the licensing requirements to be issued with a licence.

What are the main regulatory provisions a Sacco will be subject to after licence?

Similar to other deposit-taking financial institutions in Kenya, SACCOs have to comply with a wide range of regulatory provisions in their day-to-day operations. These include but not limited to:

1. Governance rules

- At a minimum, the Board of Directors (elected at the Annual General Meeting) have to establish an audit committee and credit committee. It will also be their responsibility to establish appropriate policies on credit, investment, human resource, savings, liquidity, information preservation, dividend, and risk management.
- A major change on governance is that directors and senior management are subject to vetting (fit and proper test) by SASRA.
- The separation of the responsibilities of the Board and the management has been clearly outlined in the Regulations to ensure transparency and accountability in the running of the SACCO.

2. Prudential standards

- The Act and Regulations include clear standards regarding, among others, capital, liquidity, the extent of external borrowing, asset categorisation and provisioning, maximum loan size, and insider lending.

3. Reporting requirements

- SACCOs are subject to adhering to monthly (capital adequacy, liquidity, and deposits), quarterly (risk classification of assets and loan loss provisioning, investment returns, financial performance) and annual (audited financial statements) reporting requirements to SASRA.

4. Enforcement actions

- SASRA has the authority to inspect the premises and the records of a SACCO and to prescribe enforcement actions in case of deficiencies including the appointment of a statutory manager.



Members being served at a SACCO banking hall.

- Non-compliance with legal requirements carries clearly specified penalties and includes removal from office of directors and other responsible officers.

5. Deposit insurance scheme

- Once licensed, member deposits will be protected in the event of collapse of a SACCO.
- SASRA will in the future set up a Deposit Guarantee Fund and SACCOs will be expected to contribute to this.

6. Branch approval

- Opening, closing, and relocating branches and other places of business require prior approval by SASRA.

7. Services to members only

- SACCOs shall continue to operate according to co-operative principles and deal with members only. Serving members only is the main reason why interest and other income earned from loans to members is exempt from income tax.

8. Levy

- SACCOs will have to pay a levy (published in the Gazette notice), which shall be used to finance the operations of SASRA.

What will happen to a SACCO operating FOSA and has not applied for a licence by 17th June 2011?

After 17th June 2011, a SACCO operating FOSA without a licence will be doing so against the law which is an offence that is subject to a fine of up to Kshs. 500,000.00 and/or its officers imprisoned for up to three years. Further, such a SACCO will have to cease operating the FOSA immediately.