

BANK OF BOTSWANA ACT
(Cap. 55:01)

BANK OF BOTSWANA (BUREAUX de CHANGE) REGULATIONS, 2004
(Published on 24th September, 2004)

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SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Finance and Development Planning by section 73 of the Bank of Botswana Act, the Minister, after consultation with the Bank, hereby makes the following Regulations —

1. These Regulations may be cited as the Bank of Botswana (Bureau de Change) Regulations, 2004. Citation

2. In these Regulations, unless the context otherwise requires — Interpretation

“bureau de change” means a person licensed under section 30 of the Act to transact foreign exchange business;

“foreign currency” means a currency of a class which is considered legal tender in any country outside Botswana and includes reference to a right to receive foreign currency in respect of credit or balance at a bank; and

“foreign exchange business” means the selling and buying of foreign currency.

Application
for a
licence

3. A person who wishes to make an application for a licence to operate a bureau de change shall do so in Form 1 set out in the Schedule, and the application shall be accompanied by —

- (a) an application fee of P500;
- (b) an identity document of the applicant and two passport size photographs of the applicant, and where there is more than one applicant, an identity document and two passport size photographs of each applicant;
- (c) an affidavit stating that the applicant —
 - (i) has never been declared bankrupt or insolvent, and
 - (ii) has never been convicted within or outside Botswana, of a criminal offence involving fraud, money laundering or tax evasion;
- (d) the curriculum vitae of each person who is going to be a principal officer, owner, partner or director of the bureau de change;
- (e) a financial reference of the applicant's bankers;
- (f) a written consent by the applicant, authorising the Bank to verify information given under paragraph (e); and
- (g) a copy of the Memorandum and Articles of Association by the applicant where the applicant is a company.

Licence to
operate bureau
de change

4. (1) The Bank shall, where it is satisfied that an application meets the requirements of regulation 3, issue, to the applicant, a licence to operate a bureau de change, in Form 2 set out in the Schedule.

(2) The Bank shall not issue a licence under sub regulation (1) unless the applicant pays to the Bank a licence fee of P1 000.

(3) A bureau de change shall commence operation within six months of the issue of a licence under sub regulation (1).

(4) A licence issued under sub regulation (1) shall, unless previously renewed or revoked, expire at the end of a period of 12 months of the date of its issue.

(5) Where the Bank is not satisfied that the applicant meets the requirements of regulation 3, it shall reject the application and notify the applicant thereof, in writing, stating the reasons for the rejection.

Conditions
of a licence

5. (1) A bureau de change shall operate in accordance with these Regulations.

(2) Without prejudice to the generality of sub regulation (1), a bureau de change shall —

- (a) operate from premises approved by the Bank;
- (b) not change the premises under paragraph (a) without the prior written approval of the Bank;
- (c) maintain a minimum balance of P5 000 in a deposit account, in its name, with a bank;
- (d) not encumber in any way, the amount kept in accordance with sub-paragraph (c); and
- (e) not effect any change in the composition of its shareholders or principal officers without the written approval of the Bank.

(3) A bureau de change that contravenes any provision of this regulation shall be guilty of an offence and shall be liable to a fine not exceeding P1 000.

- 6. A bureau de change shall —**
- (a) buy and sell currency at freely negotiated rates with its customers and may issue bank drafts on an agency basis and shall indicate the principal as the issuing bank of the drafts;
 - (b) buy or sell on a spot basis, foreign currency involving cash, travellers cheques or bank drafts;
 - (c) not buy or sell on the forward market or engage in any transaction involving extending credit;
 - (d) set its hours of operation and shall remain open for business during the set hours;
 - (e) notify the Bank of any changes in the hours set under paragraph (d); and
 - (f) display in a conspicuous place on the licensed premises —
 - (i) the hours set under paragraph (d),
 - (ii) its buying and selling rate of the Pula against other currencies, and
 - (iii) commission charges if any.
- 7. (1) A bureau de change shall pay to the Bank, an annual licence fee of P1 000.**
- (2) Where a payment under sub regulation (1) is made after a period not exceeding 12 months after the expiry of a licence, the Bank shall impose a penalty in accordance with sub regulation (3).
- (3) The penalty payable under sub regulation (2) shall be a sum equal to one quarter of the annual licence fee multiplied by the number of periods of three months or less which have elapsed since the date on which the validity of the licence expired, calculated to the nearest Pula.
- (4) An annual licence that expired 12 months or more prior to a payment under sub regulation (1) shall be treated as an application for a new licence and the provisions of regulations 3 and 4 shall apply thereto.
- 8. A licence issued under these Regulations shall not be transferable.**
- 9. (1) The Bank may suspend the licence of a bureau de change where the bureau de change has failed to conduct business in accordance with the Act or these Regulations.**
- (2) A suspension under this regulation shall be for such period as the Bank may determine to enable the bureau de change to take remedial action so as to comply with such requirements of the licence and the provisions of these Regulations as have not been complied with by the bureau de change.
- 10. (1) The Bank shall revoke the licence of a bureau de change where —**
- (a) the bureau de change has failed to take the remedial action referred to under regulation 9(2);
 - (b) the bureau de change has failed to pay a fine imposed under regulation 19(3)(b);
 - (c) the owner of the bureau de change has been convicted of a criminal offence within or outside Botswana;
 - (d) the Bank is satisfied that the licence was issued based on an application that contained information that is misleading or on concealment of material facts;
 - (e) the owner of the bureau de change has been declared bankrupt or insolvent; or
 - (f) the bureau de change has surrendered its licence in accordance with regulation 11.

Transactions
and dealings

Annual
licence fee

Transfer of
licence

Suspension of
licence

Revocation of
licence

Surrender of licence

11. A bureau de change may surrender its licence to the Bank by giving the Bank 30 days notice, in writing, of its intention to voluntarily cease operations.

Anti money laundering measures

12. (1) A bureau de change shall establish and maintain effective anti money laundering measures.

(2) Without prejudice to the generality of sub regulation (1), a bureau de change shall —

- (a) take reasonable measures to obtain information about the true identity of the person on whose behalf a transaction with it is conducted;
- (b) maintain, for at least 5 years, all records on transactions and submit them to the Bank for purposes of an inspection under regulation 19;
- (c) report suspicious transactions to the Directorate on Corruption and Economic Crime;
- (d) comply with any guidelines issued by the Bank regarding —
 - (i) the identification of customers,
 - (ii) the keeping records of transactions,
 - (iii) the filing of suspicious transactions reports,
 - (v) the development of internal policies, procedures, controls and adequate screening when hiring employees, and
 - (vi) continuous employee training on anti money laundering measures.

Transaction limits

13. (1) A bureau de change may purchase or sell, per person per day, a cash amount not exceeding P10 000.

(2) Notwithstanding the generality of sub regulation (1), a bureau de change may purchase or sell an amount in excess of P10 000 where the purchase or sale includes bank drafts, credit cards or travellers' cheques.

(3) A bureau de change shall not allow a purchase or sale under sub regulation (2) unless it is satisfied as to the identity of the customer and that the foreign currency emanates from an authorised *bona fide* and clearly identifiable source.

(4) The provisions of this regulation shall not apply where the bureau de change is dealing with a bank, hotel or another bureau de change.

(5) A bureau de change that contravenes a provision of this regulation shall be guilty of an offence and shall be liable to a fine not exceeding P1 000.

Receipts of transactions

14. (1) A bureau de change shall, for every -

- (a) sale transaction, issue a receipt in Form 3 set out in the Schedule; and
- (b) purchase transaction, issue a receipt in Form 4 set out in the Schedule.

(2) A bureau de change shall keep a duplicate copy of each receipt issued under sub regulation (1) for purposes of an inspection under regulation 19.

Register of transactions

15. (1) A bureau de change shall maintain a register of the following transactions —

- (a) cash;
- (b) credit cards;
- (c) travellers cheques;
- (d) bank drafts;
- (e) sales and purchase and
- (f) daily summary and balance book.

(2) A register maintained under sub regulation (1) shall be kept at the business premises of the bureau de change and shall be open for inspection under regulation 19.

(3) A bureau de change that contravenes a provision of this regulation shall be guilty of an offence and shall be liable to a fine not exceeding P1 000.

16. (1) A bureau de change shall submit to the Bank, a monthly consolidated purchase and sales return in Form 5 set out in the Schedule.

Submission of returns

(2) A return under sub regulation (1) shall be submitted by the 15th day of the month following the month in which transactions took place.

(3) A bureau de change that contravenes a provision of this regulation shall be guilty of an offence and shall be liable to a fine not exceeding P1 000.

17. The financial year of a bureau de change shall be a period of 12 months ending on the 31st of March of every year.

Financial year

18. (1) A bureau de change shall keep and maintain proper books of accounts and records of accounts in respect of every financial year relating to the assets, liabilities, income and expenditure of the bureau de change, and shall prepare, in each financial year, a statement of such accounts.

Accounts and audit

(2) The accounts of a bureau de change in respect of each financial year shall, within three months of the end thereof, be audited by an auditor appointed by the bureau de change.

(3) An auditor appointed under regulation (2) shall report in respect of the accounts for each financial year, in addition to any other matter on which the auditor considers it necessary to comment on, whether or not —

- (a) the auditor has received all information and explanations which, to the best of the auditor's knowledge and belief, were necessary for the performance of the auditor's duties;
- (b) the accounts and related records of a bureau de change have been properly kept;
- (c) the statement of accounts prepared by a bureau de change was prepared on a basis consistent with that of the preceding year and represents a true and fair view of the transactions and financial affairs of the bureau de change.

(4) The report of the auditor and a copy of the audited accounts shall, within 14 days of the completion thereof, be forwarded to the bureau de change by the auditor.

(5) The bureau de change shall, within a period of three months of the end of the financial year or within such longer period as the Bank may approve, submit, to the Bank, the auditor's report and the accounts audited under this regulation.

19. (1) The Bank may inspect premises from which a bureau de change is operated during the hours when such premises are open to the public, and may require a bureau de change to produce any book or document required to be kept under these Regulations.

Inspections by the Bank

(2) Where the bureau de change fails to produce any book or document referred to in sub regulation (1), it shall be deemed to have contravened these Regulations.

(3) The Bank may, where it finds that a bureau de change has contravened a provision of these Regulations —

- (a) caution the bureau de change in writing;
- (b) impose such fine as it considers appropriate;
- (c) suspend its licence in accordance with regulation 9; or
- (d) revoke its licence in accordance with regulation 10.

Appeals

20. (1) A person aggrieved by the Bank's decision —

- (a) not to issue a licence;
- (b) to impose a fine;
- (c) to suspend a licence; or
- (d) to revoke a licence,

may appeal, in writing, to the Minister, within 21 days of the notification of that decision.

Display of licence

21. (1) A bureau de change shall exhibit, and keep exhibited, in a prominent place on the business premises, the licence and a sign board or name plate bearing, in legible letters, the name or style under which the bureau de change carries on business.

(2) A bureau de change that contravenes sub regulation (1) shall be guilty of an offence and liable to a fine not exceeding P1 000.

Body corporate liability

22. Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any other person who was purporting to act in such capacity, he, as well as the body corporate, shall be guilty of an offence and liable to a fine not exceeding P1 000.

Offence and penalty

23. (1) A person who —

- (a) wilfully makes a false statement in any form or other document required to be kept under these Regulations;
- (b) forges a licence;
- (c) alters or erases any part of a licence or any entry lawfully made thereunder;
- (d) produces or uses a licence which is forged or which to his knowledge has been unlawfully altered;
- (e) produces or uses a licence in the name of some other person or of a fictitious person;
- (f) forges any document for the purposes of obtaining a licence;
- (g) obtains a licence to enable another person, who would otherwise not qualify to obtain the licence, to obtain such a licence; or
- (h) runs a business under a licence obtained under paragraph (g),

shall be guilty of an offence and shall be liable to a fine not exceeding P1 000 or to imprisonment for a term not exceeding six months, or to both.

(2) Subject to sub regulation (3), where a manager, agent or servant of a bureau de change does or omits to do anything which, if done or omitted to be done by the bureau de change, would be in contravention of any of the provisions of these Regulations, the bureau de change shall be deemed to have contravened the provision and shall be liable to the penalties therefor.

(3) Sub regulation (2) shall not apply where —

- (a) the act or omission was done without the bureau de change's knowledge, consent or connivance; and
- (b) all reasonable steps were taken by the bureau de change to prevent the act or omission.

(4) Where the bureau de change issued instructions forbidding an act or omission, such action shall not of itself be sufficient proof of compliance with sub regulation (3)(b).

SCHEDULE
BANK OF BOTSWANA
FORM 1

(reg 3)

APPLICATION FOR A LICENCE TO OPERATE A BUREAU de CHANGE

To be completed in duplicate and in block letters, by the company/partnership/trust/person applying for a Bureau de Change licence and submitted in a sealed envelope to the Director, Banking Supervision Department, Bank of Botswana, P/Bag 154, Gaborone.

I,, acting as principal/promoter/in the capacity as duly authorised agent on behalf of the person(s) (delete as appropriate) whose particulars are hereunder, do hereby apply for a licence to establish a Bureau de Change in Botswana.

1. Full name of applicant (individual/company/partnership/trust)
.....
.....
2. Nationality of applicant, identity number (in case of an individual) OR Certificate of Incorporation No. (in case of a company)
.....
.....
3. Postal address of applicant
4. Full residential address of applicant
5. Name of the bureau's bank and branch in Botswana
6. Name(s) of auditors and company secretaries (where applicable).....
7. Number of branches the bureau de change intends to open and their locations
8. The application should also be accompanied by the following –
 - (i) the curriculum vitae of the principle officers, owners, partners and/or directors including the qualifications and experience (in the buying and selling of foreign currency) of the principal person, who would be responsible for the day to day operations of the business;
 - (ii) financial reference from the current bankers of the applicant, a separate written consent from the principal/applicant giving the Bank of Botswana permission to carry out an independent check on the financial propriety of the director, shareholders and the principal officer;

- (iii) a certified copy of the beneficial owner(s)' official identity documents, including 2 passport size photographs; and
- (iv) full details or information pertaining to corporate affiliates to the proposed bureau de change business.

9. Full names, addresses and specimen signatures of directors/beneficial owners and number of shares held by each —

- (a).....
- (b).....
- (c).....
- (d).....
- (e).....

10. Location of proposed Bureau de Change

- (a) District
- (b) City/Town/Village
.....
- (c) Plot No. and street name (or Kgotla)
.....
- (d) Postal address (if different from plot no.)
.....
- (e) Proposed trading name (to include words "Bureau de Change")
.....
.....
- (f) Proposed hours of business
.....
.....

11. Declarations:

- (a) I/We, the undersigned, hereby declare that the above statements and particulars are true and correct;
- (b) I/We further declare that I/we have never been declared bankrupt and or convicted of a criminal offence involving fraud, money laundering, tax evasion or any other act(s) of dishonesty; and
- (c) I/We if granted a licence to trade as a bureau de change, undertake to operate the bureau de change in accordance with the Act and these Regulations, and to comply with policy directives/notices as may be issued by the Bank of Botswana from time to time and accept obligations and duties imposed by the licence.

Signature Date:

Designation/capacity
.....

Name and address of witness
.....

Signature of witness
.....



Licence No.....

BANK OF BOTSWANA

FORM 2

(Reg 4(1))

BUREAU DE CHANGE LICENCE

THIS IS TO CERTIFY THAT

Is hereby licensed to operate as a bureau de change under Section 30 of the Bank of Botswana Act (Cap. 55:01), subject to compliance with the provisions of all applicable laws and regulations and such other policies and directives as may be issued from time to time by the Bank of Botswana.

Signed at this day of 20..

Director, Banking Supervision Department.

BANK OF BOTSWANA

FORM 3

(reg 14(1)(a))

SALE TRANSACTION RECEIPT

Name and address of the Bureau de Change

Date

Time

Cheque type Thomas Cook/visa etc	Currency	Amount	Rate	Pula equivalent

Particulars of buyer:

Name

Postal and residential address in Botswana
.....

Nationality

ID/Passport No

.....
Signature of Operator

.....
Signature of Customer

Non-residents are advised to keep this receipt safely, to be produced whenever required by appropriate authority (ies) in Botswana.

NB: This receipt should be produced in duplicate

BANK OF BOTSWANA

FORM 4

(Reg 14(1)(b))

PURCHASE TRANSACTION RECEIPT

Name and address of the Bureau de Change

.....

Date

Time

Cheque type Thomas Cook/visa etc	Currency	Amount	Rate	Pula equivalent

Particulars of seller:

Name.....

Postal and residential address in Botswana

.....

Nationality.....ID/Passport No.....

.....
Signature of Operator

.....
Signature of Customer

Non-residents are advised to keep this receipt safely, to be produced whenever required by appropriate authority(ies) in Botswana.

NB: This receipt should be produced in duplicate

**BANK OF BOTSWANA
FORM 5**

(reg 16(1))

MONTHLY RETURN FOR BUREAUX de CHANGE

Month.....Day..... Year.....

Name and physical address of the Bureau de Change

.....

.....

SCHEDULE 1 -- PURCHASES

Part A: (Valid for transactions with the public other than banks and other bureaux de change)

Currency	Travellers cheques or drafts/IMO credit card	Pula equivalent	Cash		Total in Pula
			Foreign currency	Pula equivalent	
US dollar					
Pound Sterling					
South African Rand					
Euro					
Other (specify)					
Sub-total in Pula					

Part B: (Valid for transactions with banks)

Currency	Travellers cheques or drafts/IMO credit card	Pula equivalent	Cash		Total in Pula
			Foreign currency	Pula equivalent	
US dollar					
Pound Sterling					
South African Rand					
Euro					
Other (specify)					
Sub-total in Pula					

Part C: (Valid for transactions with other bureaux de change)

Currency	Travellers cheques or drafts/IMO credit card	Pula equivalent	CASH		Total in Pula
			Foreign currency	Pula equivalent	
US dollar					
Pound Sterling					
South African Rand					
Euro					
Other (specify)					
Sub-total in Pula					

Part D: Total (Part A, B and C) foreign exchange purchases (pula equivalent)

PUBLIC	BANKS	BUREAUX	TOTAL

Part E: Average buying exchange rate during the reporting month

	Traveller's cheques/drafts/IMO/credit card	Cash
US dollar		
Pound Sterling		
South African Rand		
Euro		
Other (specify)		

SCHEDULE 2 - SALES

Part A: (Valid for transactions with the public other than banks and other bureaux de change)

Currency	Travellers cheques or drafts/IMO credit card	Pula equivalent	CASH		Total in Pula
			Foreign currency	Pula equivalent	
US dollar					
Pound Sterling					
South African Rand					
Euro					
Other (specify)					
Sub-total in Pula					

Part B: (Valid for transactions with banks)

Currency	Travellers cheques or drafts/IMO credit card	Pula equivalent	CASH		Total in Pula
			Foreign currency	Pula equivalent	
US dollar					
Pound Sterling					
South African Rand					
Euro					
Other (specify)					
Sub-total in Pula					

Part C: (Valid for transactions with other bureaux de change)

Currency	Travellers cheques or drafts/IMO credit card	Pula equivalent	CASH		Total in Pula
			Foreign currency	Pula equivalent	
US dollar					
Pound Sterling					
South African Rand					
Euro					
Other (specify)					
Sub-total in Pula					

Part D: Total (Part A, B and C) foreign exchange sales (pula equivalent)

PUBLIC	BANKS	BUREAUX	TOTAL

Part E: Average selling exchange rate during the reporting month

Currency	Traveller's cheques/drafts/IMO/credit card	Cash
US dollar		
Pound Sterling		
South African Rand		
Euro		
Other (specify)		

DATED this 7th day of September, 2004.

B. GAOLATHE,
*Minister for Finance and
Development Planning.*