

**CLEARING HOUSE REGULATION 1/89
OF AUGUST 28, 1989**

PREAMBLE

The National Bank of Rwanda, hereinafter “the Bank,” in exercise of the powers conferred on it by Article 59 of Decree-Law 06/81 of February 16, 1981, hereby issues the following Clearing House Regulation, replacing the Regulation of February 10, 1976.

SECTION I.

Article 1: Clearing House Headquarters

The headquarters of the Clearing House created by the Regulation of February 10, 1976 shall remain in Kigali.

Article 2: Clearing House Membership

The members of the Clearing House shall be the National Bank of Rwanda and any financial institution admitted by it. Written notice of admission shall be given to the institution in question by the Bank.

Article 3

The admission of a new member in the Clearing House shall constitute acceptance by the new member of all the clauses of this Regulation.

SECTION II

ORGANIZATION OF THE CLEARING HOUSE

Article 4

The Bank shall be responsible for the organization of the Clearing House and for the supervision of clearing operations, as well as the implementation of this Regulation.

Article 5

The Bank shall appoint an official, hereinafter the “*centralisateur*,” who shall be responsible for supervising and centralizing clearing operations.

Article 6

Each member shall appoint a representative and an alternate to participate in the sessions. The other members shall be notified in writing of the names of the representatives and alternates.

A sample of the signatures of the representative and the alternate shall be provided at that time.

Each member shall be responsible for the acts and actions of its representatives.

Article 7

The following items shall be eligible for clearing:

1. Checks, debit notes, letters of credit, promissory notes, and bills of exchange;
2. Credit advices.

The submission of eligible items to the Clearing House shall constitute presentation to the drawee or paying agent represented.

The delivery of instruments to members shall constitute release only when the clearing has been completed, that is, after the time limit set for the return of refused instruments.

Article 8

Checks, bills, and credit advices denominated in foreign currencies or related to nonresident accounts in Rwandan francs shall also be presented in the Clearing House:

They shall be listed in ad hoc delivery slips in an equivalent amount of Rwandan francs, calculated at the average rate in force on the date of the clearing session.

To allow for verification of compliance with the provisions of the applicable exchange regulation, the items presented must specify the type of accounts debited and to be credited.

Article 9

The Clearing House shall not be liable for errors that may occur during operations processed by it, nor for any refusal to pay items presented to it.

The members concerned shall settle such disputes among themselves.

SECTION III:

OPERATION OF THE CLEARING HOUSE

A. GENERAL RULES

Article 10

The Clearing House shall hold one session each business day at 10:00 a.m. in the premises in the Bank set aside for that purpose.

Saturday shall not be considered a business day;

Instruments falling due on Saturday and non-business days shall be considered validly presented on the due date if they are cleared on the next business day.

Representatives must be present at the exact time of the session and must have in their possession all items to be cleared and the corresponding slips.

Article 11

Checks presented to the Clearing House shall be crossed and bear on the reverse a date stamp including the words "Items presented for clearing" followed by the name of the presenting member.

Pursuant to a private agreement among the members, this stamp shall have the character and effect of a regular receipt.

Article 12

All items presented in the Clearing House must be in the required form.

Endorsements, in particular, shall be considered as having been verified by the presenting member. The *centralisateur* shall therefore consider the submitted instruments complete and in proper form, and cannot be held liable for irregularities of any kind that such instruments may contain.

Article 13

Credit advices shall be drawn up on standardized, numbered forms. They must be validly signed in accordance with the list of authorized signatures of the presenting member.

Credit advices must be completely legible. They may not be crossed out or written over. The account number must match the holder of the account to be credited, and the same correspondence is required between the amount in numbers and in letters. Credit advices not

satisfying these conditions may be rejected. No credit advice may be withdrawn by the issuer without the consent of the receiving member.

B. PRESENTATION OF CREDIT INSTRUMENTS AND ADVICES

Article 14

At each Clearing House session the representatives shall present the items to be cleared, together with standardized transmittal slips, grouped in accordance with the classification in Article 7. These slips are to be filled out in triplicate before the session. Slip A shall be used for items to be cashed and slip B for credit advices. Each slip shall be signed by the presenting member and include the number and total amount of the items summarized therein. Items presented for clearing must be arranged in the order in which they appear in the delivery slips. Slip B shall include a protectograph stamp showing the total amount of the items summarized therein.

Article 15

The three copies of the transmittal slips shall be distributed as follows:

- the original shall be given to the receiving member;
- the first copy shall be given to the presenting member after a receipt for the items received by the receiving member has been appended to it;
- the second copy shall be kept by the presenting member after the appropriate information concerning the disposition of the items presented has been provided by the receiving member in accordance with Article 21 of this regulation.

Article 16

The representative of the member receiving the items presented must ensure that the total amount of the items received and the total amount of the transmittal slip(s) is the same; he must also immediately verify that the documents pertain to the member he represents.

Following verification, one of the two copies of each slip shall be signed by the representative of the receiving member, who shall return it to the representative of the presenting member.

This copy shall serve as a receipt.

C. CLOSING OF ACCOUNTS AND PREPARATION OF CLEARING BALANCES

Article 17

Each representative shall complete his settlement sheet in triplicate, entering separately for each member the total amounts of the following items:

- Credits: - checks drawn on other members and presented by his institution;

- other instruments domiciled with other members and presented by his institution;
- credit advices received from other members;
- instruments presented by other members which his institution has refused to pay;
- credit advices delivered by his institution to other members which the latter cannot execute
- debit notes on other members presented by his institution
- debit notes delivered by his institution to other members which the latter cannot execute.

- Debits:
- checks drawn on his institution and presented by other members
 - other instruments domiciled with his institution and presented by other members;
 - credit advices delivered by his institution;
 - instruments presented by his institution to other members which the latter have refused to pay
 - credit advices delivered by his institution which his institution cannot execute.

The columns are added up separately.

Article 18

After making these entries, each representative shall calculate the balance, enter it in the settlement sheet, sign the sheet, and give it to the *centralisateur*. The latter shall verify that the balances of all the settlement sheets add up and confirm this by signing each settlement sheet previously signed by the respective representatives. He shall keep the first two parts and give the third part to the representative in question.

The clearing and extinction of debts and claims shall be considered final after this operation, except in the case mentioned in Article 21 and after the time limit set for the return of refused items has elapsed.

When the accounts are closed and declared correct by the *centralisateur*, the latter shall declare the clearing session adjourned and excuse the representatives.

Article 19

The debit or credit balances of clearing accounts shall be settled by transfer to each member's current account on the books of the BNR.

Article 20

At the time of settlement of the clearing session, each member must ensure that the credit balance of its account with the Bank is sufficient to cover any debit balance, or shall immediately provide cover and/or have access to a current account advance.

If the balance of the member's account with the Bank is insufficient, the *centralisateur* shall affix his signature to a reservation clause suspending the effect of the clearing until the account in question contains sufficient funds.

If, by 2:30 p.m. of the same day, the funds are still insufficient, an exceptional closing session shall be held and the clearing shall include all the members but the defaulting member.

In this case, the items presented to the latter and those presented by it shall be returned.

D. ADVICE AND RETURN OF REFUSED INSTRUMENTS AND ITEMS

Article 21

The presenting member shall be advised by the receiving member on the day of the clearing session, at 4:30 p.m., of the nonpayment of instruments and items that the latter is unable to honor. Accordingly, the receiving member shall inform the presenting member by sending, either by courier or by fax, a copy of the 2nd part of the transmittal slip(s) – generally known as the “advice of fate” – containing, as appropriate, the following information:

- “The above instruments are paid in full” or, after the number(s) and amount(s) of the unpaid instrument(s) have been highlighted with a bold frame:
- “We are returning to you (number) unpaid and totaling RF(amount).....”

The advice of fate shall be stamped with the date of presentation and bear the signatures of the receiving member's agents, and shall be given to the presenting member in the next session.

By express agreement, the presenting member shall consider the presented instruments paid if it has not received any advice by 5:00 p.m. on the date of presentation.

Article 22

All dishonored checks and bills—as well as credit advices that cannot be executed—must be returned in the next session following the one in which they were presented.

They shall be listed in the transmittal slips mentioned in Article 14 and bear a stamp indicating the reason for refusal of payment. Checks reported as unpaid but not returned in the first session shall be considered honored.

Article 23

The receiving member that refused to pay an instrument may ask the presenting member to present the instrument again.

The presenting member must respond to such a request if the disputed instrument is still in its possession.

The disputed instrument must be honored if it is in good and proper form.

Article 24: Penalties

Failure to comply with the provisions of this Regulation shall result in imposition of the following penalties, depending on the seriousness of the noncompliance:

- a fine not to exceed RF 10,000;
- suspension for a maximum of one month;
- exclusion.

Article 25: Entry into force

This regulation shall enter into force on September 1, 1989.