



**REPUBLIC OF KENYA
FINANCIAL REPORTING CENTRE**

CBK PENSION FUND BUILDING (FORMERLY MARSHALLS HOUSE)
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**COMMENTS TO THE DRAFT PROCEEDS OF CRIME AND ANTI-MONEY
LAUNDERING REGULATIONS, 2012**

The Proceeds of Crime and Anti-Money Laundering Act, 2009 (POCAMLA) was enacted on December 10, 2009 and came into operation on June 28, 2010. The Act criminalises money laundering activities; provides mechanisms for freezing, seizing and confiscating of proceeds of crime; and stipulates obligations for Reporting Institutions (Financial Institutions and Designated Financial Businesses and Professions). The Act also establishes various institutions to combat money laundering, amongst them being the Financial Reporting Centre (Kenya's Financial Intelligence Unit).

The Financial Reporting Centre, established by Section 21 of POCAMLA, is an independent body whose principal objective is to assist in the identification of the proceeds of crime and combating money laundering. Under section 24 of POCAMLA, the FRC has extensive functions and powers, including:

- i) Receipt and analysis of reports of unusual or suspicious transactions and cash transaction reports made by Reporting entities as well as cash declaration forms received from border points.
- ii) Sending Reports received under the Act to appropriate law enforcement authorities or other supervisory body for further handling.
- iii) Undertaking inspection and supervision of reporting institutions to ensure compliance with AML/CFT reporting obligations as prescribed in POCAMLA.
- iv) Developing AML/CFT training programmes for reporting institutions.
- v) Facilitating exchange of information on money laundering activities with other financial intelligence units in other countries.

Section 24(m) of POCAMLA requires the FRC to draft Regulations required by the Act. The FRC has accordingly prepared the draft Proceeds of Crime and Anti-Money Laundering Regulations, 2012 to amongst others, guide Reporting Institutions and Supervisory bodies on their respective obligations under the Act. The Regulations provide guidance on:

- The functions of the FRC
- Registration by Reporting Institutions with the FRC
- Cross border conveyance of monetary instruments
- Anti-Money Laundering obligations of Reporting Institutions including internal control obligations

- Customer Due Diligence Measures including Enhanced Due Diligence Measures
- Publically Exposed Persons
- Reliance on Third parties
- Reporting of suspicious activities.

To enable finalisation and issuance of the Regulations, the Centre has today released the draft Proceeds of Crime and Anti-Money Laundering Regulations, 2012 to all primary stakeholders, Reporting Institutions, Supervisory/Regulatory Bodies, relevant professional bodies/associations and development partners for review and comments. It is envisaged that the Regulations will come into effect in October, 2012 once comments to the draft Regulations are received and reviewed.

The draft Guidelines may be accessed at www.centralbank.go.ke. Written comments should be submitted directly to the Centre no later than 8th October, 2012 to facilitate the timely rollout of the Regulations to:

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September 28, 2012