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November 21, 2022

## **BANKING CIRCULAR NO. 5 OF 2022**

**TO: ALL CHIEF EXECUTIVES OF COMMERCIAL BANKS, MORTGAGE FINANCE COMPANIES AND MICROFINANCE BANKS**

### **ADDITIONAL GUIDANCE ON LARGE CASH TRANSACTIONS**

#### **1.0 Background**

Cash transactions remain a key mode of payments in Kenya as digitization gathers pace. Over time and as the digital infrastructure expands, Kenya will become a *cash-lite* economy. Notwithstanding its convenience, cash poses Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) risks in all countries.

To mitigate these risks, Kenya implemented a cash transactions verification and reporting framework that is underpinned by the various laws—specifically, the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA) and its Regulations—in line with best practices. Accordingly, POCAMLA sets a threshold of USD10,000 or its equivalent or Ksh.1 million for enhanced due diligence and the reporting of cash transactions by commercial banks and other reporting institutions to the Financial Reporting Centre (FRC). This threshold is consistent with practices in other jurisdictions including the European Union and the United States as detailed in **Annex I**.

Following some concerns, CBK issued additional guidelines in January 2016, to facilitate the effectiveness of these verification and reporting requirements. These guidelines did not introduce new requirements but provided clarity on the processing of large cash transactions and also reminded institutions of their obligations. This was to assist financial institutions identify any unusual cash transactions and report them to the FRC. However, concerns about the implementation of these verification and reporting requirements have been raised at various occasions. In particular, the implementation of the due diligence requirements stipulated by POCAMLA and its Regulations for cash transactions above Ksh.1 million were viewed as onerous especially for Medium, Small and Micro Enterprises (MSMEs). The key public concerns include:

- Some cash transactions above Ksh. 1 million or USD10,000 equivalent take place without supporting documentation e.g., purchase/sale of livestock or grain.
- Some banks are applying stringent due diligence measures on cash transactions below Ksh. 1 million or USD10,000 equivalent, allegedly as part of AML/CFT due diligence.

- Different treatment of cash transactions in different branches of the same bank i.e., some branches were more stringent than others.
- Repeat and known customers being required to fill detailed forms and provide supporting documentations for every transaction they conducted.

## 2.0 Cash Transactions Survey

Against this background, CBK needed to understand the root cause of these concerns and then design an appropriate solution. CBK undertook a number of initiatives including engaging banks. The overall objective was to streamline the due diligence processes for large cash transactions, including leveraging on technology to smoothen customer experience. Additionally, CBK conducted a Survey of cash transactions in banks over the last five years (2016 to 2021) whose key findings include:

- 98 percent of cash deposits (number of transactions) and 97 percent of cash withdrawals (number of transactions) were for amounts below Ksh.1 million.
- Deposit and withdrawal transactions below Ksh.1 million accounted for 71 percent and 69 percent, respectively, of the total value of transactions.
- A gradual reduction of number of cash deposits and withdrawals was noted in the period, as digitalization of payment systems scaled up.
- 60 percent of suspicious cash transactions reported by banks to the FRC related to cash transactions between Ksh.1 million and Ksh.5 million.
- Customers complained that the process was cumbersome and time consuming.
- Certain types of transactions did not have supporting documentation.
- Repeat customers complained that they were asked the same questions every time they made a large cash transaction.
- In instances where a customer fails to meet the due diligence requirements for undertaking large cash transactions, most banks either reject the transaction or process it and then file a Suspicious Transaction Report (STR) with the FRC.

Thus, the Survey summarized in **Annex II** established that most cash transactions in banks related to amounts below the threshold of Ksh.1 million. Additionally, transactions above the Ksh.1 million threshold presented significant AML/CFT risk. Further, there is scope for banks to leverage on technology to enhance the customer experience.

## 3.0 Key Issues

Having considered the key issues pertaining to large cash transactions, CBK advises as follows:

- There is need for standard treatment of large cash transactions across the banking sector to smoothen the customer experience while ensuring that AML/CFT considerations are taken

into account. To this end, CBK has designed the attached *Large Cash Transactions Declaration Form* for completion by customers, to be adopted as a minimum standard across the sector.

- In instances when a customer fails to meet the due diligence requirements for undertaking large cash transactions, banks can process the transaction and then file a STR to FRC as prescribed by POCAMLA and its Regulations.

#### **4.0 Purpose of this Guidance**

- (a) To remind commercial banks, mortgage finance institutions and microfinance banks of their obligations under the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA) and the Proceeds of Crime and Anti-Money Laundering Regulations (Regulations). In particular:
- Section 44(1) and (2) of POCAMLA requires institutions to monitor and report suspicious transactions including those relating to cash, to the FRC.
  - Section 44 (6) of POCAMLA and Regulation 34 require reporting institutions to file reports with the FRC on all cash transactions equivalent to or exceeding USD10,000 or its equivalent.

Institutions should continue submitting Suspicious Transaction Reports (STRs) including on cash transactions and Cash Transaction Reports (CTR) for all cash transactions equivalent to or exceeding Ksh.1 million or USD 10,000 to the FRC in the usual manner.

- (b) Ask institutions to review the process of enhanced due diligence on large cash transactions and adopt technology/innovations as appropriate to address the pain points and enhance the customer experience.
- (c) Forward the attached large cash transactions declaration form to be adopted across the banking industry as a minimum standard. Institutions will be required to continue exercising their discretion and judgement on their individual customers based on the AML/CFT legal and regulatory requirements.

All institutions are required to submit a report to CBK **by January 31, 2023**, on the implementation of this Guidance and enhancement of mechanisms for verification and reporting of large cash transactions.

Yours faithfully,



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