

BANKI
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KENYA



CENTRAL
BANK OF
KENYA

October 11, 2023

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BANKING CIRCULAR NO. 11 OF 2023

TO ALL CHIEF EXECUTIVE OFFICERS OF COMMERCIAL BANKS, MORTGAGE FINANCE COMPANIES AND MICROFINANCE BANKS

REQUEST FOR INFORMATION ON BUSINESS ACCOUNTS OF PERSONS AND ENTITIES PROVIDING MONEY OR VALUE TRANSFER SERVICES WITHOUT A LICENSE OR AUTHORISATION FROM THE CENTRAL BANK OF KENYA

Kenya went through a mutual evaluation of its anti-money laundering and combating of terrorism financing and countering proliferation financing (AML/CFT/CPF) regime by the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) from October 2021 to July 2022. The mutual evaluation report (MER) for Kenya was adopted by the ESAAMLG at its plenary meeting in Livingstone, Zambia and published in September 2022. Post mutual evaluation, Kenya was referred to the Financial Action Taskforce's (FATF) International Cooperative Review Group (ICRG) process due to adverse results in its mutual evaluation. The country is currently under a period of observation for one year from October 2022 to October 2023, during which time Kenya is required to take action to address deficiencies and Recommended Actions noted in the MER.

The Report noted that Kenya has not taken action with a view to identifying natural or legal persons that provide money or value transfer services (MVTs) without a licence or registration and applying proportionate and dissuasive sanctions to them (*page 189 of the Report*). The Report further noted that breaches of licensing or registration requirements are not proactively detected (*page 131 of the Report*). This is therefore a deficiency which Kenya needs to address.

The supervision of money or value transfer service providers for AML/CFT/CPF purposes is the mandate of the Central Bank of Kenya (CBK). This is provided for under the Proceeds of Crime and Anti-Money Laundering Act, CBK Act, Microfinance Act, National Payment System Act and Money Remittance Regulations, 2013.

With a view to addressing the deficiency noted in the MER, the CBK seeks to establish the identities and physical locations of persons and entities suspected to be carrying on money or value transfer business in Kenya without a license or authorisation issued by CBK.

Financial institutions have a duty, as part of customer due diligence (CDD) requirements, to establish if a customer engages in a business which requires a license or authorisation from a supervisory body but has not obtained such a license or authorisation. Financial institutions are not permitted to open accounts for persons who engage in illegal business activities. Funds from such business activities are proceeds of crime. Financial institutions have a duty to report to the Financial Reporting Centre (FRC) suspicious transactions including transactions involving

proceeds of crime. Operating a money or value transfer business without the requisite license or authorisation from the CBK is an illegal activity.

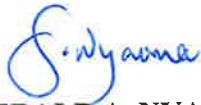
This is therefore to request you to check and verify from your customer records, the details of any person or entity which may be providing money or value transfer service as a business, without a license or authorisation from the CBK.

Financial institutions are hereby directed to report to the CBK within thirty days from the date of this letter, identity details, physical locations and/or other contact details of persons and entities illegally providing money or value transfer services. Where customer records disclose no such person or entity, the financial institution should submit a nil report, within the period specified. Any failure to submit an accurate report or any concealment of material information shall be penalised under the new AML/CFT penalty provisions of the CBK Act, Banking Act, Microfinance Act and National Payment System Act, as the case may be.

The purpose of the Circular is to:

1. Remind financial institutions of their obligation not to on-board customers providing money or value transfer services without a license or authorization from the CBK.
2. Direct financial institutions to submit reports to CBK on their customers who are operating money or value transfer business without a license or authorization from the CBK.

Yours faithfully,



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