

Governor

BANKI
KUU YA
KENYA



CENTRAL
BANK OF
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September 13, 2023

BANKING CIRCULAR NO. 8 OF 2023

TO: ALL CHIEF EXECUTIVES OF COMMERCIAL BANKS AND MORTGAGE FINANCE COMPANY

COMPLIANCE WITH BANKING ACT AND CENTRAL BANK OF KENYA PRUDENTIAL GUIDELINES

The Banking Act, the Prudential Guidelines, the Risk Management Guidelines, and various directives issued by the Central Bank of Kenya (CBK) from time to time form the legal and regulatory framework through which banking business is conducted in Kenya. The framework ensures that banking business is conducted in a sound, safe, and prudent manner. Further, the guidelines provide clarity on legal requirements and the various expectations that ensure compliance with legal, regulatory, and prudential requirements.

One of the key mandates of the CBK under the CBK Act Cap 488 is to foster financial stability. CBK discharges this mandate by regulating and supervising the conduct of banking business and enforcing compliance with the legal and regulatory requirements through onsite and offsite surveillance of all licensed banking institutions. CBK's surveillance has revealed non-compliance with various legal and regulatory requirements particularly the following:

a) Prudential Guideline on Corporate Governance-CBK/PG/02

- **Section 3.4.5**-Failure by Board Members to attend or attain Continuous Professional Development through training on relevant issues to assist them in discharging their duties.
- **Section 3.4.5**-Board Committees particularly the Audit Committee that are not duly constituted.
- **Section 3.11.2**-Compensation schemes that are not aligned with the principles set out in the Guideline. The principles are intended to ensure that compensation is aligned to an institution's risk profile.

b) Prudential Guideline on Risk Classification of Assets and Provisioning-CBK/PG/04

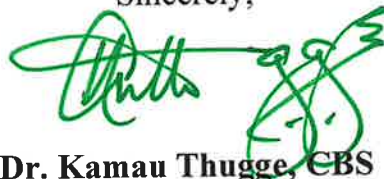
- **Section 3.2**-Loans and advances being classified contrary to the provisions of the Guideline which states that performance of the loan or advance should be the primary consideration.

- **Section 3.5**-Re-negotiated loans and advances (restructured) not being classified according to the provisions of the Guideline leading to evergreening of some facilities and under-provisioning.
 - **Section 3.5**-Externalisation (Transfer) to third parties of non-performing facilities with the credit risk remaining with the institution leading to under-provisioning and misstatement of financial statements.
 - **Section 3.6**-Provisioning requirements not being complied with due to misclassifications leading to inadequate provisions.
- c) **Prudential Guideline No. CBK/PG/16 on Outsourcing**-Outsourcing material services without approval of CBK.
- d) **Banking Act (Increase of Rate of Banking and Other Charges) Regulations 2006 Subsection 7**-Rolling out products and levying charges without obtaining approval of CBK.

The purpose of this Circular is therefore to remind all commercial banks and mortgage finance company to ensure full compliance with the Banking Act, CBK Prudential Guidelines, regulations and CBK directives.

Please note that failure to comply with the provisions of the Banking Act, CBK Prudential Guidelines and CBK Directives will attract enforcement action as specified under the Banking Act.

Sincerely,



Dr. Kamau Thugge, CBS

cc: Dr. Habil Olaka, MBS
Chief Executive Officer
Kenya Bankers Association
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NAIROBI