

SPECIAL ISSUE

Kenya Gazette Supplement No. 97 (National Assembly Bills No. 21)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2020

NAIROBI, 19th June, 2020

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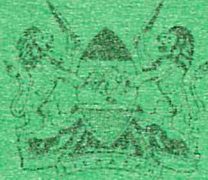
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THE CENTRAL BANK OF KENYA (AMENDMENT) BILL, 2020

A Bill for

AN ACT of Parliament to amend the Central Bank of Kenya Act and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Central Bank of Kenya (Amendment) Act, 2020.

2. Section 4A of the Central Bank of Kenya Act, 2014 is amended—

(a) in subsection (1) by inserting the following new paragraphs immediately after paragraph (d) —

(da) regulate and supervise the conduct of providers of digital financial products and services;

(db) regulate and supervise the conduct of digital credit providers and digital credit service providers;

(dc) regulate and supervise the conduct of providers of financial products and services;

(dd) regulate and supervise the conduct of financial services;

(b) in subsection (2) by inserting the following new subsections immediately after subsection (2) —

(2A) In subsection (1) (da) —

“digital financial product” means a digital facility or an arrangement through which, or through the acquisition of which, a person makes a digital financial investment, manages digital financial risk, or makes a non-cash payment.

“digital financial service” means the provision in relation to a digital financial product, financial product advice, market, administrative or management services or credit under a regulated credit contract.

“financial product” means a facility or an arrangement through which, or through the acquisition of which, a person—

- (a) makes a financial investment;
- (b) manages financial risk; or
- (c) makes a non-cash payment.

“financial service” means the provision in relation to a financial product—

- (a) of a credit service;
- (b) financial product advice;
- (c) dealing in a financial product;
- (d) market for a financial product; or
- (e) administration or management.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to amend the Central Bank of Kenya Act in order to ensure that the Central Bank of Kenya regulates the conduct of providers of digital financial products and services and financial products and services.

The current position is that there is no legal framework governing digital borrowing platforms and other financial products and services. As such, the Central Bank of Kenya will have an obligation of ensuring that there is a fair and non-discriminatory marketplace for access to credit.

Statement of how the Bill concerns County governments

The Bill does not concern county governments in terms of Article 110 (a) of the Constitution.

Statement of delegation of legislative powers and limitation of fundamental rights and freedoms.

The Bill does not contain any provision limiting any fundamental rights or freedoms.

Statement that the Bill is a money Bill, within the meaning of Article 114 of the Constitution.

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 3rd June, 2020.

OROO OYIOKA,
Member of Parliament.

Section 4A of the Central Bank of Kenya Act Cap 490 which it is proposed to amend—

4A. Other objects of the Bank

(1) Without prejudice to the generality of section 4 of 2014, the Bank shall—

- (a) formulate and implement foreign exchange policy;
- (b) hold and manage its foreign exchange reserves;
- (c) license and supervise authorised dealers;
- (d) formulate and implement such policies as best promote the establishment, regulation and supervision of efficient and effective payment, clearing and settlement systems;
- (e) act as banker and advisor to, and as fiscal agent of the Government; and
- (f) issue currency notes and coins.

(2) In subsection (1) (d)—

“clearing” means the process of transmitting, reconciling and confirming payments prior to settlement, including the netting of payments and the establishment of net positions for settlement;

“payment system” means a system of instruments, procedures and rules for the transfer of funds among system participants;

“settlement” means an act that discharges financial obligations between two or more parties.

