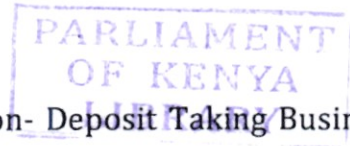


EXPLANATORY MEMORANDUM

(Prepared pursuant to Section 5A of the Statutory Instruments Act, No. 23 of 2013)

EXPLANATORY MEMORANDUM TO THE SACCO SOCIETIES (NON -DEPOSIT TAKING BUSINESS) REGULATIONS, 2020

PART I



Name of the Statutory Instrument: The Sacco Societies (Non- Deposit Taking Business) Regulations, 2020

Name of the Parent Act: The Sacco Societies Act, No.14 of 2008

Enacted Pursuant to: Section 3(2) as read with Section 68(1) of the Sacco Societies Act No.14 of 2008

Name of the Ministry: Ministry of Agriculture, Livestock, Fisheries and Co-operatives

State Department: State Department of Co-operatives

Gazetted on: 5th May, 2020 (*Legal Notice No. 82 of 2020 – Special Issue - Kenya Gazette Supplement No. 67*)

Tabled on: 2020

PART II

1.0. PURPOSE OF THE STATUTORY INSTRUMENT

1.1. The purpose of these regulations is to:

- (a) Specify the non-deposit taking business to which the Sacco Societies Act apply; and
- (b) Prescribe measures for the conduct of the specified non-deposit taking business by Sacco Societies.

1.2. They seek to operationalize prudential regulation and supervision of specified non – deposit taking Saccos as envisaged in the Sacco Act with the objective to enhance

savings mobilization, protection of Sacco members deposits, and financial stability within the Sacco Sub sector. They stipulate the financial, governance and operational standards expected of the Specified Non-deposit Taking business.

2.0. LEGISLATIVE CONTEXT:

- 2.1. The Savings and Credit Cooperative societies, represented by the acronym SACCOs, are one of the most important and often visible typologies of cooperatives in Kenya. Their distinguishing and unique character trait from other types of cooperatives is the object and purpose for which they are incorporated, which is to transact the *business of mobilization of savings, and advancement of credit facilities to their members*. This unique business undertaken by SACCOs in what is referred to, under the Sacco Societies Act as “*Sacco business*”.
- 2.2. Sacco business has been defined under the Sacco Societies Act to mean “*financial intermediation and any other activity by a Sacco society based on co-operative principles and in accordance with the Act, or in compliance with Islamic law by way of:*
- (a) *receipt of withdraw-able deposits, domestic money transfer services, loans, finance advances and credit facilities; or*
 - (b) *receipt of non-withdraw-able deposits from members and which deposits are not available for withdrawal for the duration of the membership of a member in a Sacco society and may be used as collateral against borrowings providing finance and domestic money transfer services*
- 2.3. Consequently, the Sacco Societies Act recognizes **two types of businesses** that together comprise “**Sacco business**”. These are the --
- (a) deposit-taking business; and
 - (b) non-deposit taking business.
- 2.4. The distinguishing factor or characteristics between the two types of Sacco business, **is the nature of deposits that are involved**, as follows -
- 2.5. **In the first case is the deposit-taking business:** - This is defined under the Sacco Societies Act as:
- (a) a Sacco business in which the person conducting the business holds himself out as accepting deposits on a day-to-day basis; and

(b) any other activity of the Sacco business which is financed, wholly or to a material extent, by lending or extending credit for the account and at the risk of the person accepting the deposit, including the provision of short-term loans or funding or in compliance with the Islamic law.

The regulations for deposit-taking business of Sacco Societies were made in June 2010, namely the **Sacco Societies (Deposit-taking business) Regulations 2010 -Legal Notice No. 95 of 2010**. These Regulations are being implemented and have been overseen by the Sacco Societies Regulatory Authority (SASRA) since 2010 with great success.

- 2.5. In the second case are the non-deposit-taking business--** This is defined under the Sacco Societies Act, in the negative terminology as *“Sacco business, other than deposit-taking business”*. Thus, the key restriction that distinguishes the two businesses is the fact that under the *non-deposit taking business*; the component of ***receipt of withdrawable deposits***” is absent.
- 2.6.** In conclusion, the Sacco business in respect of which Regulations to be made under Section 3(1)(b) of the SSA, are understood to mean ***“SACCO business as defined in SSA, but which excludes the receipt of withdrawable deposits***, and it is on this basis that the Regulations herein have been made. These are the Sacco Societies, which in common parlance are known as BOSA only Sacco Societies.

3.0. POLICY BACKGROUND

3.1: Introduction:

- 3.1.1. The provision of savings and credit to members is a financial services business and hence an integral part of the financial services sector. Consequently, SACCOs are also often referred to as financial cooperatives, and are clustered as such together with other financial intermediating cooperatives like investments and housing cooperatives. SACCOs in Kenya are thus a distinct and separate subset of Financial Cooperatives, whose supervision and regulation is prescribed in the Sacco Societies Act.
- 3.1.2. The SACCO subsector contributes significantly to the overall attainment of Vision 2030 through financial inclusion, increased savings mobilization, improved access to credit and enhanced financial sector stability which are the key objectives of the Sacco Societies Act.
- 3.1.3. The Kenya SACCO subsector was by way of practice divided in to two segments; principally defined or differentiated by the nature of savings and deposits that the SACCOs mobilize from their membership namely –
- (a) the *deposit-taking SACCOs* (DT-SACCOs) commonly known as FOSA SACCOs;
 - (b) the *non-deposit-taking SACCOs*
- 3.1.4. Upon the enactment of the Sacco Societies Act in 2008, these two segments of SACCO businesses which started as a way of practice found legal definitions. The BOSA only deposits became the “***non-withdraw-able deposits***” and the FOSA deposits becoming the “***withdraw-able deposits***”. In this legal definition, the Sacco Societies Act provided that –
- (a) SACCOs that undertake both the BOSA and FOSA deposits, would be deemed to undertake “deposit-taking Sacco business” (*The Regulations for this business has been in place since June 2010 and being implemented by SASRA*); and
 - (b) SACCOs that undertook “BOSA deposits only, without the FOSA deposits would be deemed to undertake “non-deposit taking business.” (*The subject Regulations herein, relates to this segment of business, in respect of which Regulations have never been made despite the Act coming into operation on 26th September 2009 – Legal Notice No. 153 of 2009*)

3.2: Policy Justification for Making Regulations for NON-DT-SACCOs

- 3.2.1** Traditionally, it was assumed that by design, the business risks inherent in Non-DT-SACCOs are contained within the membership and that redress mechanisms exist for the members to hold leaders to account including voting them out and electing new ones.
- 3.2.2** The efficacy of this assumption has however been challenged by the recent happenings within the Non-DT-SACCO segment; which has been replete with an increasingly growing concern over the perennial failure by a few Non-DT-SACCOs to honor financial contractual obligations owed to their members. These include failing to provide or avail credit to members who have saved with them; failure to offer refund to members of their non-withdrawable deposits upon resignation among other.
- 3.2.3** Some of the recent activities and concerns within the Non-DT-SACCO segment, which supports the need for the Regulatory Framework for Non-DT-SACCOs include –
- (a) The perennial collapse or failure of some Non-DT-SACCOs with huge loss of non-withdrawable deposits held by members; resulting into public outcry from the members of the public for governmental intervention. For Example, the collapse and failure of Goodlife Sacco Society Ltd; Ekeza Sacco Society Ltd among others.
 - (b) The emergence of unregulated SACCOs operating within the virtual digital space, as digital SACCOs; and which collects non-withdrawable deposits from the public using digital money platforms with promises of good returns or credit facilities, but vanishes immediately after receiving deposits from the public.
 - (c) Increased usage of mobile financial channels to receive deposits and pay members, narrowing the difference between deposit taking business and non-deposit taking business amongst SACCOs with the latter offering no room for accountability and protection of the members' deposits; and
 - (d) Increased incidences of Pyramid and Ponzi like schemes being styled and operated in the form of SACCOs, hoodwinking the public as genuine SACCO operators, but always collapse with public funds.
 - (e) Need to protect the reputation of genuine SACCOs, which is often tainted by the business misconduct of the many unregulated entities, some purporting to be

SACCOs, and which often than not erodes public confidence and trust in the SACCO system, particularly as savings mobilization vehicles.

3.3 Summary of the Regulations for Non-DT-SACCOs

The regulations are divided into several parts as summarized below.

- (a) **Citation and Commencement:** This part provides for the citation of the Regulations and proposes that they shall come into operation at such a day that shall be published in the Kenya gazette by the Cabinet Secretary in consultation with the SASRA. The rationale is to enable SASRA get the necessary resources and funding in preparation to onboarding the new SACCO societies.
- (b) **Authorization/Licensing:** This is the entry point for the specified non-deposit taking to the proposed regulatory framework. For every regulator there must be an entry and an exit point of the regulated entities. Since these SACCOs require no licensing, the entry point shall be through authorization. The Authorization shall be perpetual unless revoked, but subject to compliance with regulatory requirements and payment of applicable fees.
- (c) **Capital Adequacy Requirements:** The regulations provide for core capital which comprise of paid up member share capital, retained surplus and donated capital, and capital adequacy requirements which must be met and maintained at all times. The core capital proposed is Kshs.5 Million and capital adequacy requirements, which are much less than those required to be maintained by the deposit-taking SACCOs.
- (d) **Liquidity Management:** This is meant to ensure the institution maintains sufficient cash and liquid assets to satisfy the demands for loans and non-withdrawable deposits and other day-to-day operational expenses. Liquidity is an important indicator of the financial stability in a SACCO Society since it shows the ability to meet obligations as they fall due.
- (e) **Shares and Deposits:** Regulations around member share capital and deposit are aimed enhancing integrity of the financial and member records maintained by the SACCO at all times. The regulations provide the minimum data and features that must be maintained and updated for a member in respect of the share register and non-withdrawable deposits.

- (f) **Credit Risk Management:** Specified non-deposit taking SACCOs collect non-withdrawable deposits for lending to members. The regulations provide for minimum and general credit risk management requirements, classification of loans by purposes, lending disclosures to borrowers, procedures for introduction of new products and reporting requirements. Effective credit risk management practices are the foundation of a sound SACCO and authorized SACCOs will be required to make quarterly returns on loans outstanding in their books by sectors they have lend monies. This will enable aggregation and reporting at national level, thus availing the much-needed data on contribution of SACCOs to household credit in Kenya and general credit market.
- (g) **Risk Classification and Assets and Provisioning:** The regulations under this part aim to ensure that loans are prudently managed and reported to members and the regulator. For standardization, classification of loan performance adopted in these regulations is the same applied by deposit taking SACCO businesses.
- (h) **Investments and Associated entities:** The core business of SACCO business is to facilitate financial intermediation amongst a closed group of members. Thus, these regulations provide restrictions and limitations on investments in such assets as land and property, equities of other institutions to avoid exposures of members' deposits.
- (i) **Financial Performance Reporting:** The specified non-deposit taking SACCOs will be making returns quarterly and via an electronic platform so as to enhance efficiency and monitoring.
- (j) **Governance of SACCO Societies:** This is largely provided in the SACCO Societies Act and the regulations dwell on defining the duties and responsibilities of the board of directors to enhance alignment with the lending business and associated risks. The regulations propose a maximum of three committees given the demands of a specified non-deposit taking business and the need to enhance effective and efficiency in board functioning.
- (k) **Regulation and Supervision:** This part provides for the supervisory powers and approach of the regulatory agency including inspections of SACCO Societies, enforcement actions, administrative sanctions, prohibitions and removal of officers. It also provides for statutory management of troubled SACCOs and the

assessment and imposition of financial penalties against errant SACCOs and SACCO officials.

- (l) **Information, security, preservation and Business Continuity:** This part defines the minimum features expected of management information systems for a non-specified deposit taking business. The regulations also provide measures required to ensure security and preservation of vital and critical information of the SACCO, including issues relating to cyber security risks.
- (m) **Miscellaneous Provisions:** This section deals with amalgamations and transitional provisions.

4.0. CONSULTATION OUTCOME

4.1. Constitution of a SACCO subsector Taskforce to draft regulations

1. The Cabinet Secretary responsible for SACCO Societies appointed a SACCO subsector-led Taskforce to formulate the Regulations for the Non-DT-SACCOs the *Kenya Gazette Notice No. 12771 dated 2nd December 2018*.

2. The Taskforce was composed of ten (10) persons representing key stakeholder institutions in the SACCO subsector, including the State Department of Cooperatives; Council of Governors; the Cooperative Alliance of Kenya (CAK); the Kenya Union of Savings and Credit Cooperatives (KUSCCO); the Cooperative Bank of Kenya; and the Authority.

(See Annexure "A" – Kenya Gazette Notice No. 12771 - dated 2nd December, 2018 (FOLIO - 1 -2)

3. The Taskforce collected views; analysed data; held meetings; and undertook an in-depth literature review, including from comparative jurisdictions and prepared an Interim Report, which included the proposed regulatory Framework for Non-DT-SACCOs, supported by Policy Statements. The Draft Report was shared with the Cabinet Secretary for concurrence.

(See Annexure "B" – Letter dated 28th February 2019 submitting the Interim Report to the Cabinet Secretary – (FOLIO - 3 -5); and Interim Report of the Task Force with Draft Regulations for exposures – (FOLIO - 7 -109); and Policy Framework Statements – (FOLIO - 111 - 136)

4. The Cabinet Secretary, through the Principal Secretary, State Department of Cooperatives by way of a letter dated 5th April 2019, thereafter authorized the Draft Regulations and Policy Frameworks Statements, for public and stakeholder consultations.

(See Annexure "C" – Letter dated 5th April, 2019 from the Principal Secretary – (FOLIO - 137)

5. The SASRA Board as a key stakeholder also adopted the Draft Regulations on 10th April 2019.

4.2. Public and Stakeholders' Consultation and Participation

A. EXPOSURE OF THE DRAFT REGULATIONS TO PUBLIC

1. Upon approval of the draft regulations, the Taskforce exposed the Draft Regulations together with the Policy Framework Statements to members of the public for comments, views and other opinions through exposure of the notices and invitation for comments, views and feedback from the public as below;

(a) the websites of the State Department of Co-operatives, www.industrialization.go.ke, and the website of SASRA www.sasra.go.ke

The taskforce on 10th April 2019 published a notice on the draft regulations and the framework statements inviting all the stakeholders to give written comments, views and feedback on the same by the 3rd of May 2019. The invitation targeted SACCOs, members of SACCOs, National Cooperative Organizations (NACOs), Academia, public and private agencies and the public in general. A dedicated email taskforce@sasra.go.ke, was provided for ease of making the submissions.

(b) the Daily Nation Newspaper dated 17th April 2019:

The taskforce run a Public Notice in the Daily Nation inviting comments, views and feedback on the Framework Statements and the Draft Regulations from SACCOs, members of SACCOs, the NACOs, Academia, public and private agencies and the public in general.

(See Annexure "D" – Extract of advertisement dated 10th April 2019 displayed on the said websites – (FOLIO – 139); and Extract of advertisement in the Daily Nation Newspaper dated 17th April, 2019 – (FOLIO – 141))

2. The Policy Framework Statements were principally meant to provide general explanation to members of the public and other key stakeholders of the policy justification, rationale of each clause of the Draft Regulations; as well as the policy mischief that each clause was meant to cure, in a non-technical and non-legal language.

B. INVITATION TO REGIONAL STAKEHOLDERS' WORKSHOPS

1. By way of the public notice in the **Daily Nation Newspaper dated 17th April 2019**, and also displayed in the website of SASRA and the Ministry, all stakeholders were invited to regional town hall meetings which were held on the dates and venues contained in the said notice as follows –

- (a) **Nairobi Metropolis Region: 23rd April 2019 – Intercontinental Hotel** - For stakeholders from Nairobi County and the Metropolis namely the counties of Kiambu, Nakuru, Murang'a, Kajiado, Machakos, Makueni and Kitui.
- (b) **Mt. Kenya Region: 24th April 2019 – Green Hills Hotel in Nyeri** - to cover Nyeri, Nyandarua, Kirinyaga, Embu, Tharaka Nithi, Meru, Laikipia, Samburu, Isiolo, Marsabit, Wajir and Mandera counties.
- (c) **West and Rift Regions: 25th April 2019 – Pinecone Hotel in Kisumu** - to cover public participation for Kakamega, Busia, Siaya, Vihiga, Nandi, Kisumu, Nyamira, Kisii, Homa Bay, Migori, Kericho, Baringo, Uasin Gishu, Elgeyo Marakwet, Bungoma, Tans-Nzoia, Narok, West Pokot, Bomet and Turkana counties.
- (d) **Coast Region: 29th April – Voyager Beach Resort, Mombasa** – to cover public participation for Taita Taveta, Kwale, Mombasa, Kilifi, Lamu, Tana River, and Garissa counties.

- 2. By way of the advertisement in the **Daily Nation Newspaper dated 17th April 2019**, and also displayed in the website of SASRA and the Ministry, the stakeholders were also advised of the **validation workshop planned for 8th May 2019** but venue was to be communicated later as procurement process was in progress.
- 3. All the workshops were free of any cost and everybody was invited to attend and participate in the same.

C. COMMUNICATION TO PRIMARY STAKEHOLDERS

- 1. The primary stakeholders were identified as those who were likely to be directed or indirectly affected by the Draft Regulations. Individual letters were done to some of these key primary stakeholders, which were identifiable with their contact addresses known.

- 2. These included:

- (a) Non-deposit taking SACCO Societies – the principal communication was through the Daily Nation Newspapers, the Website advertisement and verbal communications through the respective County Cooperative Officers.

- (b) Council of Governors: specifically invited for a special meeting in accordance with the Executive Committee members responsible for Co-operatives on the 30th April 2019. The Council of Governors was also represented in the taskforce by two officers.
- (c) County Co-operative Officials for Kisumu, Kilifi, Kwale, Mombasa, Nairobi, Nyeri counties where the regional workshops were scheduled to take place.
- (d) The National Treasury.
- (e) Central Bank of Kenya.
- (f) Institute of Public Accounts of Kenya (ICPAK).
- (g) State Department of Cooperatives.
- (h) National Cooperative Organizations (NACOs) including –
 - (i) the Kenya Union of Savings and Credit Cooperatives (KUSCCO);
 - (ii) CIC Insurance Group

(See Annexure "E" – Selected samples of invitation Letters to the Stakeholders – (FOLIO – 143 - 168)

D. ATTENDANCE AND PRESENTATION MADE AT THE REGIONAL MEETINGS

1. The regional forums were designed to enhance public and stakeholder participation by creating appropriate opportunities:

- (a) Train and sensitize the participants on the framework statements and the draft regulations.
- (b) Providing clarifications on draft regulations.
- (c) Enabling the participants provided informed comments and feedback.
- (d) Get immediate comments, views and feedback from the participants.

(See Annexure "F" – Power Point Presentations Made at the Four Regional Workshops – (FOLIO -169 - 207); and the individual days' programmes at the Four Regional Workshops – (FOLIO -209 - 215)

2. These forums were led by the taskforce members and attended by the representatives of SASRA; KUSCCO and County Government representatives (Co-operative Directors and officers) of respective host Counties.

3. A total of 297 participants attended the four regional forums.

(See Annexure "G" – Attendance List for Participants for Nairobi Metropolis Region held on 23rd April 2019 at Intercontinental Hotel, Nairobi – (FOLIO -217 - 256)

(See Annexure “HI” – Attendance List for Participants for Mt. Kenya Region held on 24th April 2019 at Green Hills Hotel, Nyeri – (FOLIO – 257 – 262)

(See Annexure “JK” – Attendance List for Participants for West and Rift Regions held on 25th April 2019 at Pinecone Hotel, Kisumu – (FOLIO –263 – 270)

(See Annexure “L” – Attendance List for Participants for Coast Region held on 29th April 2019 at Voyager Hotel, Mombasa – (FOLIO – 271 – 280)

E. ANALYSIS AND RESPONSES TO THE COMMENTS RECEIVED FROM REGIONS AND DIRECTLY BY THE SECRETARIAT

1. The taskforce provided a period of fourteen (14) days from the 10th April 2019 to 3rd May 2019 for the stakeholders to consider the draft regulations and give written comments, views and feedback. By the 3rd of May 2019, the taskforce had received written submissions from:
 - (a) KUSCCO;
 - (b) Cooperative Bank;
 - (c) 14 Sacco Societies;
 - (d) Two private individuals;
 - (e) Officers from County Departments of Cooperatives;

In addition, during the regional forums, 55 Sacco Societies gave their verbal submissions which the taskforce documented.

2. The comments and submissions received from each region were consolidated and collated by clustering them into specific regulatory issues in order to discern any emerging issues. The comments from the different regions were consolidated to discern the cross-cutting concerns from all the stakeholders as summarized in the Table below:

	Parts of Draft Regulations and Framework Statement	No. of Responses
1	Authorization/Licensing	36
2	Governance	19
3	Regulation and supervision	18
4	Capital Adequacy	13
5	Shares and deposits	12
6	Consumer (member) protection	9

	Parts of Draft Regulations and Framework Statement	No. of Responses
7	Liquidity management	5
8	Investment and associated entities	6
9	Risk classification of assets and provisioning	5
10	Financial performance reporting	5
11	Credit Risk Management	3
12	Information Preservation	2
13	Miscellaneous provisions	2
14	General comments (editorial and policy clarifications)	7
13	Miscellaneous provisions	2

3. A total of 143 responses were received from members of Sacco societies, Sacco Societies, NACOs and private individuals. ***All the responses received were in support of the draft regulations in general but proposed some changes in specific provisions.*** Specifically, the rules of entry (i.e. Authorization) attracted most comments and views; followed by governance and regulatory powers of the Authority. The draft regulations on capital adequacy, shares and deposits also raised many comments from the stakeholders.
4. The taskforce held a meeting, considered the collated views and comments and determine on how the same affects the regulations.
(See Annexure "M" - A Summary of the Key Issues Considered by the Taskforce and Changes Effected on the Regulations - (FOLIO - 281 - 300))

F: STAKEHOLDER VALIDATION MEETING

1. During the public notice convening the regional stakeholder forums, the taskforce notified the stakeholders and the public in general of the validation workshop planned on 8th May 2019, in accordance with the advertisement in the **Daily Nation dated 17th April, 2019** and the notice exposed in the websites of the State Department of Cooperatives and SASRA.
2. Further, reminder letters to attend and participate at the validation meeting were issued as follows -
 - (a) Special letter dated 6th May 2019 inviting the Cabinet Secretary, Ministry of Industry, Trade and Co-operatives to be the Chief Guest on the occasion of

validation meeting of the Draft Regulations on 8th May 2019 at the Crown Plaza, Nairobi.

(See Annexure "N" - Special letter dated 6th May 2019 to the Cabinet Secretary, Ministry of Industry, Trade and Co-operatives - (FOLIO - 301 - 302)

(b) General circular dated 2nd May 2019 issued to all the Non-Deposit-taking SACCOs.
(See Annexure "O" - General circular all Non-DT-SACCOs to attend the validation meeting - (FOLIO - 303)

(c) Specific letters sent to the National Co-operative Organizations (NACOs) including Co-operative Alliance of Kenya (CAK); National Co-operative Housing Union (NACHU); Co-operative Bank of Kenya; KUSCCO; Cooperative University College.
(See Annexure "PQ" - Letters dated 3rd May 2019 to the NACOs to attend the validation meeting - (FOLIO - 305 - 313)

(d) Specific invitation letters dated 3rd May 2019 to the County Directors of Cooperatives for Nairobi County and Kiambu County, being the host counties where the validation meeting was scheduled.
(See Annexure "R" - Letters dated 3rd May 2019 to the County Directors of Cooperatives in Nairobi and Kiambu counties to attend the validation meeting - (FOLIO - 315 - 317)

3. The purpose of the validation workshop was:

- (a) Acknowledge the comments/feedback/proposals received by the taskforce and during the regional stakeholders' meetings;
- (b) Share taskforce consideration of the comments/proposals;
- (c) Explain changes to the draft regulations arising from the comments and feedback from stakeholders and obtain consensus;
- (d) Receive additional views as appropriate;
- (e) Share roadmap to completion of the Regulations

4. The validation workshop was held at **Crowne Plaza Hotel on the 8th of May 2019** and was attended by 283 participants, and was presided over by the Cabinet Secretary, Industry, Trade and Co-operative.

(See Annexure "S" - The days' programme at the Validation Meeting - (FOLIO - 319); and the attendance Register of Participants at the Validation Meeting - (FOLIO - 321 - 354)

5. During the validation meeting, the taskforce made two presentations to the participants namely:

(a) The Process of Making the Draft Regulations in order to ensure the stakeholders understand the process applied and that it is compliant with relevant legal requirements and the policy challenges the regulations are seeking to address.

(b) The key Issues arising from the comments and memorandum submitted by the industry stakeholders and how the same had influenced the regulations.

(See Annexure "T" - Presentations Made to the participants During the Validation Meeting - (FOLIO - 355 - 368)

6. During the plenary session of the validation workshop, the participants asked additional questions and clarifications where they felt that the taskforce had not adequately addressed the concerns in their submissions and/or memoranda; and at the end of the meeting the participant unanimously validated the Draft Regulations.

G: FINAL REPORT AND REGULATIONS

1. Upon conclusion of the stakeholder validation meeting, the taskforce incorporated the final comments received from the validation meeting into the report and the Draft Regulations.

2. The Taskforce thereafter prepared a Final Report, incorporating the Draft Sacco Societies (Specified Non-deposit-taking business) Regulations, and submitted both the **Final Report** and the **Draft Regulations** to the Cabinet Secretary, Ministry of Industry, Trade and Co-operatives vide Letter of Transmittal dated 15th May 2019.

(See Annexure "UV" - Letter transmittal dated 15th May 2019 and Final Report of the Taskforce dated 14th May 2019 - (FOLIO - 369 - 370)

(See Annexure "W" - Final Report of the Taskforce dated 14th May 2019 - (FOLIO - 371 - 556)

(See Annexure "X" - Draft Regulations for Specified Non-Deposit Taking Sacco Business dated 14th May 2019 - (FOLIO - 557 - 677)

H. FURTHER CONSULTATIONS WITH THE NATIONAL TREASURY AND CENTRAL BANK OF KENYA

Conscious of the fact that Sacco Societies and Sacco businesses are a critical part of the national financial sector, the Principal Secretary, State Department of Cooperatives, did initiate and held further consultations on the Draft Regulations with the National Treasury and Central Bank of Kenya on **9th September 2019 at the National Treasury.**

(See Annexure "YZ" - Email correspondences with the National Treasury and the Central Bank technical teams, and the comments from the National Treasury and CBK - (FOLIO - 679 - 700)

H: SUBMISSION FOR APPROVAL BY THE CABINET

Upon finalization of the national consultation, the Draft Regulations were submitted to the Cabinet for consideration, and the same were duly approved with appropriate directives to the relevant Ministries for implementation.

5.0. GUIDANCE

- 5.1. The Regulations provide adequate time for Sacco Societies to comply therewith. In Particular, the transitional clause in the Regulations provide for a six (6) months period for affected Sacco Societies to comply therewith. In addition, the Regulations provide for issuance of a twelve-months provisional authorizations to Sacco Societies, which are unable to comply with the Regulations, during which period such Sacco Societies will have the opportunity to comply with the Regulations.
- 5.2. SASRA as the implementing agency shall sensitize and capacity build Sacco Societies to comply with the Regulations during the prescribed twelve-months transitional period.
- 5.3. The Regulations are not complex.

6.0. IMPACT

6.1. The impact on Fundamental Rights and Freedoms

The Regulations have no impact on fundamental rights and freedoms

6.2. The impact on the Private Sector

The Regulations have no impact on the private sector. Sacco Societies are private entities, but dealing in public goods. The Regulations shall enhance the protection of the public goods, inherent in the business activities and operations of Sacco Societies as private entities.

6.3. The Impact on the public sector

1. Sacco Societies are private entities dealing in public goods, and thus the rationale for governmental intervention through supervision and regulation to protect the public interests inherent therein, especially the public savings and deposits held by them.
2. The Regulations will thus deepen governmental prudential and conduct of business oversight of non-DT-SACCOs thereby bringing stability, financial soundness, member (consumer) protection as well as the protection of members' savings and deposits.

6.4. Impact Assessment

An impact assessment report has not been prepared for this statutory instrument (Regulations). The Regulations are made pursuant to the section 3 of the Sacco societies Act of 2008.

7.0. MONITORING AND REVIEW

- 7.1.** The Regulations shall be implemented by SASRA, as the national government's principal statutory agency responsible for implementing the Sacco Societies Act, and overseeing the business operations and activities of Sacco Societies in Kenya. SASRA shall provide mandatory annual statutory reports on the implementation of the Regulations to the Cabinet Secretary, which shall be utilized as a monitoring and review mechanisms for the success of their implementations.
- 7.2.** The Cabinet Secretary, in consultation with SASRA shall be responsible for making policy recommendations for review or amendment of the Regulations.
- 7.3.** The ultimate intended outcome of successful implementation of the Regulations is a financially stable, sound and market responsive Sacco subsector, with specific focus to the non-deposit-taking Sacco Societies. This will yield to increased protection of members' savings and deposits held in such Sacco Societies, and thereby deepen trust and confidence by members of the public in Sacco Societies, as alternative investment destinations, as well as worthy providers of credit facilities, especially to household economies and Medium Small and Micro-enterprises (MSME's),

8.0. CONTACTS

8.1 Mr. Ali Ismail Noor

Principal Secretary
State Department of Co-operative
Ministry of Agriculture, Livestock, Fisheries and Co-operatives
P.O Box 30547 - 00100

Nairobi

Tel - 020 - 2731531/ 254 - 070-097-021/ 788-484-840

Email: ps.ushirika@gmail.com,

8.2. Mr. John M. Mwaka

Chief Executive Officer
Sacco Societies Regulatory Authority (SASRA)
P.O Box

Nairobi

Tel. 254 - 722-843-927

Email: jmwaka@sasra.go.ke