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THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT ON:

CONSIDERATION OF THE ANTI-MONEY LAUNDERING AND COMBATING OF
TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025 (NATIONAL ASSEMBLY
BILL NO. 5 OF 2025)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 08 APR 2025	DAY: TUES
TABLED BY:	CHAIRPERSON, DC JLAC
CLERK-AT THE-TABLE:	PERPETUAL NYGA

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS

APRIL 2025

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LIST OF ABBREVIATIONS AND ACRONYMS

AML	-	Anti-Money Laundering
AMLAB	-	Anti-Money Laundering Advisory Board
BCLB	-	Betting Control and Licencing Board
CBK	-	Central Bank of Kenya
CFT	-	Countering the Financing of Terrorism
CSPEN	-	Civil Society Parliamentary Engagement Network
EACC	-	Ethics and Anti-Corruption Commission
EANG	-	Estate Agents Networking Group
EARB	-	Estate Agents Registration Board
ESAAMLG	-	Eastern and Southern Africa Anti-Money Laundering Group
FATF	-	Financial Action Task Force
FRC	-	Financial Reporting Centre
ICPAK	-	Institute of Certified Public Accountants of Kenya
KBA	-	Kenya Bankers Association
LSK	-	Law Society of Kenya
MCCP	-	Maendeleo Chap Chap Party
ODM	-	Orange Democratic Movement
ODPP	-	Office of the Director of Public Prosecutions
UDA	-	United Democratic Alliance
WDM	-	Wiper Democratic Movement

ANNEXURES

- Annexure 1: Adoption Schedule
- Annexure 2: Minutes
- Annexure 3: Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (*National Assembly Bill No. 5 of 2025*)
- Annexure 4: Communication from the Speaker
- Annexure 5: Advertisement inviting the public to submit memoranda on the Bill
- Annexure 6: Letter from the Clerk of the National Assembly inviting relevant stakeholders to attend the public participation forum
- Annexure 7: Memoranda by Stakeholders

CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Justice and Legal Affairs on its consideration of the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill (*National Assembly Bill No. 5 of 2025*) which was published on 11th February 2025. It was read a First Time in the House on 4th March 2025 and thereafter committed to the Departmental Committee on Justice and Legal Affairs for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The Honourable Speaker of the National Assembly directed that the Committee prioritize consideration of the Bill and report to the House soonest as the Bill is informed by various international obligations that require the country to have a robust legal framework to combat money laundering, financing of terrorism and proliferation of weapons.

The Bill seeks to make various amendments to the following ten (10) statutes –

1. The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)
2. The Prevention of Terrorism Act (Cap. 59B)
3. The Betting, Lotteries and Gaming Act (Cap. 131)
4. The Retirement Benefits Act (Cap. 197)
5. The Mining Act (Cap. 306)
6. The Sacco Societies Act (Cap. 490B)
7. The Accountants Act (Cap. 531)
8. The Estate Agents Act (Cap. 533)
9. The Certified Public Secretaries of Kenya Act (Cap. 534)
10. The Public Benefits Organizations Act (No. 18 of 2013)

In compliance with Article 118(b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on 11th March 2025 inviting the public to submit memoranda by way of written statements on the Bill.

In addition, the Clerk of the National Assembly vide letter Ref. No. *NA/DDC/JLAC/2025/014* dated 26th March 2025 invited key stakeholders to submit views on the Bill and attend a public participation forum on Thursday 3rd April 2025. The memoranda were to be received on or before Wednesday, 2nd April 2025 at 5.00 pm (East African Time). By the close of the submission deadline, the Committee had received six (6) memoranda.

The Office of the Attorney General, Assets Recovery Agency, Civil Society Parliamentary Engagement Network (CSPEN), Ethics and Anti-Corruption Commission (EACC), Estate Agents Registration Board (EARB), Financial Reporting Centre (FRC), Ministry of Mining, Blue Economy and Maritime Affairs, Law Society of Kenya (LSK), Transparency International, Institute of Certified Public Accountants of Kenya (ICPAK) and the Director of Public Prosecutions (ODPP) attended the public hearing forum and gave their views on the Bill which the Committee considered in the preparation of this report.

While considering the Bill, the Committee observed that the Bill addresses fundamental issues relating to anti-money laundering, countering the financing of terrorism and countering the proliferation of weapons of mass destruction in addressing the technical compliance deficiencies identified arising from the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) re-rating and review by Financial Action Task Force and matters incidental thereto. Therefore, the Bill is necessary to ensure compliance with global standards on anti-money laundering and combating of terrorism financing and proliferation financing.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill (*National Assembly Bill No. 5 of 2025*).

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Bill. The Committee further wishes to thank the Office of the Attorney General, Assets Recovery Agency, Betting Control and Licencing Board (BCLB), Central Bank of Kenya (CBK), Civil Society Parliamentary Engagement Network (CSPEN), Ethics and Anti-Corruption Commission (EACC), Estate Agents Registration Board (EARB), Estate Agents Networking Group (EANG), Financial Reporting Centre (FRC), Mau Mau Associations, Ministry of Mining, Blue Economy and Maritime Affairs, Law Society of Kenya (LSK), Transparency International, Institute of Certified Public Accountants of Kenya (ICPAK) and Director of Public Prosecutions (ODPP). for submitting their views on the Bill.

Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

It is my pleasure to report that the Committee has considered the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (*National Assembly Bill No. 5 of 2025*) and have the honour to report back to the National Assembly with the recommendation that the House **approves the Bill with amendments as proposed in the Schedule of Amendments.**


HON. MURUGARA GEORGE GITONGA, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

CHAPTER ONE

1 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Justice and Legal Affairs is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - iii. *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. *To study and review all legislation referred to it;*
 - v. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - viii. *To examine treaties, agreements and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 Mandate of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider: -
 - a) The Judiciary;
 - b) Tribunals;
 - c) Access to Justice;
 - d) Public prosecutions;
 - e) Ethics, Integrity and Anti-corruption;
 - f) Correctional services;
 - g) Community service orders and witness protection;
 - h) Constitutional Affairs;
 - i) Sovereign immunity;
 - j) Elections including referenda;
 - k) Human rights;
 - l) Political parties; and
 - m) The State Law Office' including insolvency, law reform, public trusteeship, marriages and legal education.
3. In executing its mandate, the Committee oversees the following Ministries, Departments and Agencies:

- a) State Department of Correctional Services;
- b) State Law Office and Department of Justice;
- c) The Judiciary;
- d) Judicial Service Commission;
- e) Office of the Director of Public Prosecutions;
- f) Ethics and Anti-Corruption Commission;
- g) Independent Electoral and Boundaries Commission;
- h) Commission on Administrative Justice;
- i) Office of the Registrar of Political Parties;
- j) Witness Protection Agency;
- k) Kenya National Commission on Human Rights;
- l) Kenya Law Reform Commission; and
- m) Council of Legal Education.

1.3 Committee Membership

4. The Committee was constituted by the House on 27th October 2022 and comprises the following Members:

Chairperson

Hon. Murugara George Gitonga, CBS, MP
Tharaka Constituency

UDA Party

Vice-Chairperson

Hon. Mutuse Eckomas Mwengi, OGW, MP
Kibwezi West Constituency

MCCP Party

Members

Hon. Gladys Boss, MGH, MP
Uasin Gishu (CWR)

UDA Party

Hon. Maalim Farah, EGH, MP
Dadaab Constituency

WDM Party

Hon. Francis Kajwang' Tom Joseph, MP
Ruaraka Constituency

ODM Party

Hon. Onyiego Silvanus Osoro, CBS, MP
South Mugirango Constituency

UDA Party

Hon. (Dr.) Otiende Amollo, SC, MP
Rarieda Constituency

ODM Party

Hon. Wetangula Timothy Wanyonyi, CBS, MP
Westlands Constituency

ODM Party

Hon. Muchira Michael Mwangi, MP
Ol Jorok Constituency

UDA Party

Hon. Muchangi Karemba, CBS, MP
Runyenjes Constituency

UDA Party

Hon. Makali John Okwisia, MP
Kanduyi Constituency

FORD-Kenya

Hon. Aden Daud, EBS, MP
Wajir East Constituency

Jubilee Party

Hon. Mogaka Stephen M, MP
West Mugirango Constituency

UDA Party

Hon. Siyad Amina Udgoon, MP
Garissa Township (CWR)

Jubilee Party

Hon. CPA Suleka Hulbale Harun, MP
Nominated

UDM Party

1.4 Committee Secretariat

5. The Committee is well-resourced and facilitated by the following staff:

Mr. Ahmed Salim Abdalla
Clerk Assistant I / Head of Secretariat

Mr. Ronald Walala
Senior Legal Counsel

Mr. Abdikafar Abdi
Clerk Assistant III

Ms. Jael Ayiego
Clerk Assistant III

Mr. Isaac Nabiswa
Legal Counsel II

Mr. Omar Abdirahim
Fiscal Analyst I

Ms. Vivienne Ogega
Research Officer III

Ms. Mary Kamande
Public Communications Officer III

Mr. Calvin Karung'o
Media Relations Officer III

Mr. Silas Opanga
Hansard Reporter III

Mr. Meldrick Sakani
Audio Officer

Mr. John Nduaci
Serjeant-At-Arms

CHAPTER TWO

2 THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL (*NATIONAL ASSEMBLY BILL NO. 5 OF 2025*)

2.1 Introduction

6. The Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 is sponsored by the Leader of Majority Party, Hon. Kimani Ichung'wah, MGH, MP.
7. The Bill was published on 11th February 2025 and read a First Time in the House on Tuesday 4th March 2025. It was thereafter committed to the Departmental Committee on Justice and Legal Affairs in line with the provision of Standing Order 127(3).

2.2 Summary of Legal Provisions

8. The Bill seeks to amend various Acts of Parliament relating to anti-money laundering; and combating of financing of terrorism and proliferation acts to address deficiencies in Kenyan laws. The Bill seeks to amend the following laws—

1) **The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)**

The proposed Bill seeks to amend the Act by adopting the title “Director General” as the head of the Asset Recovery Agency to align with other investigative agencies. The proposed Bill also seeks to define a dealer in precious metal or stone as one of the businesses that are designated as non-financial businesses which are regulated and supervised by the Financial Reporting Centre. In addition, the proposed Bill seeks to align the Act with the Public Benefits Organizations Act, 2013 by deleting reference to non-governmental organisations.

2) **The Prevention of Terrorism Act (Cap. 59B)**

The proposed Bill seeks to amend the Act to define the term “terrorism financing” which includes the offences of collection or provision of funds, property and services for commission of terrorist acts; and financing of travel for terrorism purposes as stipulated under section 5 and 5A respectively. Further the proposed Bill seeks to align various provisions of the Act with standards developed the Financial Action Task Force to combat terrorism financing.

3) **The Betting, Lotteries and Gaming Act (Cap. 131)**

The proposed Bill proposes to amend the Act to empower and allow the Betting Control and Licensing Board to regulate and supervise entities that fall within its jurisdiction for anti-money laundering, counter terrorism financing and counter proliferation financing.

4) **The Retirement Benefits Act (Cap. 197)**

The proposed Bill seeks to amend the Act by strengthening the mandate of the Retirement Benefit Authority to regulate, supervise and enforce compliance of the entities under its watch for anti-money laundering, counter financing of terrorism and counter proliferation financing.

5) **The Mining Act (Cap. 306)**

The proposed Bill seeks to amend the Act to empower the Director of Mining, and in discharge of his or her functions, to regulate, supervise and enforce compliance of persons

under his or her supervision for anti-money laundering, counter financing of terrorism and counter proliferation financing.

6) The Sacco Societies Act (Cap. 490B)

The proposed Bill seeks to amend the Act by empowering Sacco Societies Regulatory Authority to regulate and supervise bodies under its purview for anti-money laundering, counter financing of terrorism and counter proliferation financing.

7) The Accountants Act (Cap. 531)

The proposed Bill proposes to amend the Act to empower and allow the Institute of Accountants to regulate and supervise matters relating to anti-money laundering, counter financing of terrorism and counter financing of proliferation acts.

8) The Estate Agents Act (Cap. 533)

The proposed Bill seeks to amend the Act to empower the Estate Agents Registration Board to regulate and supervise entities that fall within its jurisdiction for anti-money laundering, counter financing of terrorism and counter financing of proliferation acts.

9) The Certified Public Secretaries of Kenya Act (Cap. 534)

The proposed Bill seeks to amend the Act to strengthen the Institute of Certified Public Secretaries to closely regulate and supervise issues relating to anti-money laundering, counter financing of terrorism and counter proliferation financing.

10) The Public Benefits Organizations Act (No. 18 of 2013)

The proposed Bill seeks to amend the Act to empower the Public Benefits Regulatory Authority to oversight and monitor public benefits organizations that are at risk of terrorism financing in Kenya.

CHAPTER THREE

3 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

3.1 Legal Framework on Public Participation

9. Article 118 (1)(b) of the Constitution provides that:

“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.”

10. The National Assembly Standing Order 127 (3) and (3A) stipulates that:

*“(3) The Departmental Committee to which a Bill is committed shall **facilitate public participation on the Bill** through an appropriate mechanism including-*

*(a) **inviting submission of memoranda;***

*(b) **holding public hearings;***

*(c) **consulting relevant stakeholders in a sector; and***

*(d) **consulting experts on technical subjects.***

(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.”

3.2 Memoranda Received on the Bill

11. Pursuant to the aforementioned provisions of law, the Clerk of the National Assembly placed an advertisement in the print media on 11th February 2025 inviting the public to submit memoranda by way of written statements on the Bill. Further, the Committee vide letter Ref. No. *NA/DDC/JLAC/2025/014* dated 26th March 2025 invited key stakeholders to submit views on the Bill and attend a public participation forum on Thursday 3rd April 2025.

12. To this end, the Departmental Committee on Justice and Legal Affairs received fifteen memoranda from the Office of the Attorney General, Assets Recovery Agency, Betting Control and Licencing Board (BCLB), Central Bank of Kenya (CBK), Civil Society Parliamentary Engagement Network (CSPEN), Ethics and Anti-Corruption Commission (EACC), Estate Agents Registration Board (EARB), Estate Agents Networking Group (EANG), Financial Reporting Centre (FRC), Mau Mau Organisations, Ministry of Mining, Blue Economy and Maritime Affairs, Law Society of Kenya (LSK), Transparency International, Institute of Certified Public Accountants of Kenya (ICPAK), the Office of the Director of Public Prosecutions (ODPP), the Institute of Certified Public Secretaries of Kenya (ICPSK) and Henia Anzala and Associates. The memoranda are annexed to this report as *Annexure 7*.

13. The following entities submitted memoranda in support of the provisions contained in the Bill—

- (1) The **FRC** submitted memoranda in support of the Bill stating the Bill addresses the technical compliance deficiencies in the country’s legal framework identified by ESAAMLG and FATF standards as well as other issues in anti-money laundering and combating of terrorism and proliferation financing. It further stated that FATF International Cooperation Review Group (ICRG) process has strict timelines and failure to adhere to the same would affect Kenya’s timely exit from the FATF grey list.
- (2) The **OAG** submitted memoranda in support of the Bill stating that it contents do not offend the Constitution or the existing Acts of Parliament. However, the policy direction lies with the National Treasury and Economic Planning.

- (3) The **BCLB** submitted memoranda in support of the Bill of the amendments to the Betting, Lotteries and Gaming Act (Cap. 131).
 - (4) The **CBK** submitted memoranda in support of the Bill stating that it will strengthen the country's anti-money laundering and combating of terrorism financing regulatory framework.
 - (5) The **PBORA** submitted memoranda in support of the proposed amendments to the Public Benefits Organizations Act, 2013 (No. 18 of 2023).
 - (6) The **ODPP** submitted memoranda in support of the proposed amendments to the Prevention of Terrorism Act (Cap 59B) stating that the amendments are fundamental to the successful prosecution of offences under the Act.
 - (7) The **ICPSK** submitted memoranda in support of the proposed amendments and highlighted commendable aspects of the Bill, examined the relevance of the Company Secretary profession's regulatory framework role in AML compliance, and provided recommendations to enhance its effectiveness.
14. **EACC, ODPP, EARB, EANG, ICPAK, CSPEN, Assets Recovery Agency, Ministry of Mining, Blue Economy and Maritime Affairs and Transparency International** submitted memoranda in support of the Bill with specific additional proposals for inclusion in the Bill as follows—
Further amendments to the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A).
16. EACC proposed amendment of—
- (a) section 2 of the Act to define the term "*proliferation financing*". According to them, the lack of a clear definition may lead to inconsistent application of the law and hinder effective enforcement and compliance requirements. It also proposed to include the dealers in artefacts and antiques under the definition of designated non-financial businesses.
 - (b) section 11(1) of the Act to include a corresponding sanction for the offence of non-compliance by reporting institutions.
 - (c) section 49 of the Act to include the Chief Executive Officer of the Commission as a member of the AMALB as the Commission is a key player in investigations on all matters corruption, economic crimes and money laundering relating to proceeds of corruption.
17. ODPP proposed that section 49 of the Act be amended to include the DPP as a member of the AMALB as the office is a key stakeholder.
18. Transparency International submitted that the proposed new subsection 134(3)(a) be amended by the deleting the option of paying a fine as a penalty and enhancement of the period of imprisonment in the case of a natural person. It stated that a fine of up to ten million shillings for natural persons may seem insignificant compared to the illicit profits made, leading offenders to treat it as a "cost of doing business" thus diminishing the intended impact of the penalty and fails to address the severity of the crime.
19. The Ministry of Mining, Blue Economy and Maritime Affairs proposed that—
the new definition of "dealers in precious stones or metals" be amended by replacing paragraph (a) with "mining operations". It submitted that under the Mining Act, a mineral dealer does not include a person or entity engaged in the extraction or production of minerals. However, using the term mining operations ensures it covers the

extraction/production of precious metals and stones and also ensures harmonization of both laws.

20. It further proposed the First Schedule be amended to include the State Department responsible for mining in the list of supervisory bodies.
21. The Assets Recovery Agency proposed that section 55A be amended by deleting the word “Asset” and substitute therefor the word “Assets” to correct an error in the naming of the Agency.
22. CSPEN proposed that—
 - (a) the Act should be amended to establish a system of management of the assets recovered. It stated that additional measures are needed to enhance its efficiency and ensure that recovered assets are not mismanaged or lost through corruption by establishing a robust asset management system.
 - (b) risk assessment guidelines should be developed to ensure that risk evaluations is consistent, legally grounded, and aligned with international best practices. These guidelines should provide a clear framework for identifying, assessing and mitigating risks in each sector, while safeguarding fundamental rights, including data protection and due process.
23. ICPAK submitted that—
 - (a) section 9 and 10 of the Act be amended to provide a penalty provision aimed to strengthen the enforcement mechanism of the Act by introducing clear and enforceable consequences for non-compliance.
 - (b) while in agreement with the provisions of section 13(2), it was of the opinion that the section should carefully balance the need for robust financial surveillance with respect for individual privacy rights, particularly in the context of sensitive financial information. It was its view that the provision should be explicitly detailed to ensure that the AML/CTF measures comply with national data protection laws.
 - (c) section 24 of the Act be amended to establish clear checks and balances to ensure that the FRC’s powers are exercised transparently and fairly. Oversight mechanisms such as a review panel or regular audits of the FRC’s actions could be implemented to prevent overreach.
 - (d) section 36A(4) of the Act be amended to provide clear guidelines and oversight mechanisms to prevent misuse of resources and ensure that fees or charges are determined and utilized in a fair, reasonable and accountable manner. It further submitted that while section 44 aims to improve financial surveillance, it could lead to an unnecessary administrative burden on financial institutions, particularly for low-risk transactions. It was of the view that a more balanced approach should be adopted, where financial institutions are required to report only transactions that meet a defined risk threshold. It stated that the Bill should differentiate reporting requirements based on risk assessments, rather than blanket for all transactions.
 - (e) while section 45 of the Act as proposed to be amended in the Bill seeks to enhance due diligence requirements for financial institutions, the Bill should include clearer guidance on the types of enhanced due diligence measures that should be adopted particularly in relation to politically exposed persons (PEPs) and non-resident clients. It stated that clear guidelines on verifying foreign PEPs will ease the compliance burden on financial institutions, improve the effectiveness of due diligence, and enhance international cooperation in fighting financial crimes.

- (f) specific clauses that outline the mechanisms for mutual legal assistance and sharing of intelligence between countries should be incorporated in the Bill as well as a framework for financial institutions to collaborate with. This would enhance global cooperation, improve intelligence exchange and strengthen compliance with international AML standards.
- (g) non-financial entities such as real estate companies, lawyers and accountants have become significant players in money laundering activities. It was of the view that strengthening the obligations of non-financial entities would enhance transparency, accountability, and AML compliance to reduce their misuse for illicit activities.
- (h) the use of the term “periodically” in section 36D (3) of the Act does not establish clear timelines for conducting assessments. It was of the opinion that the section be amended to replace the word “periodically” and substitute therefor with the words “on a semi-annual basis each year” and provide a new subsection 2 to read as follows—
“The Financial Reporting Centre shall compile the finding of these assessments into a quarterly report, which shall be published on its website before the next review is conducted.”
- (i) section 53 of the Act be deleted. It stated that the Assets Recovery Agency Director General is the accounting officer of the Board and appointment should not be left to one member of the advisory board or have any external hand but be left to the Advisory board as a whole for independence.
- (j) section 53(3)(a) be amended by deleting the words “law” and “or any other relevant” in the qualifications for appointment as the Director-General of the Assets Recovery Agency. It further proposed that section 53(3)(c) of the Act be deleted and replaced with the following—
“a member in good standing, registered with a body that regulates the accounting profession in Kenya”
- (k) section 53(4) of the Act be amended by requiring the Assets Recovery Agency to consult with the Public Service Commission instead of the Attorney General to second staff to the Agency. It stated that the Public Service Commission has a well-resourced and elaborate procedure and internal processes in staff recruitment, training and development and thus best placed to handle staff matters and help the Agency in development of its human capital.
- (l) section 71 be amended to allow police officers to seek such seizure power from the court. It stated that to prevent the misuse of power by officers in arbitrarily seizing property, the authority to sanction such seizures should be vested in the courts.

24. LSK proposed—

- (a) the deletion of the provisions of section 49(1) (f) and (g) of the Act. It stated that the proposal seeks to eliminate conflict of interest by Kenya Bankers Association (KBA) and Institute of Certified Public Accountants of Kenya (ICPAK representation in the Anti-Money Laundering Advisory Board (AMLAB). They noted that pursuant to section 48 of the Act, the KBA and ICPAK representatives have reporting obligations to the FRC thus creating direct conflict of interest. Their membership in the AMLAB involves in them in decisions making that affects the FRC's ability to oversee and supervise AML/CFT measures within their own institutions and undermines public trust and confidence in the FRC's operations. It further stated that, the provisions of Sec. 49(1)(h) of the Act, the Cabinet Secretary is mandated to appoint to AMLAB two other persons from the private sector who shall have knowledge and

expertise in matters relating to money laundering'. In view of the membership of the two institutions in the AMLAB, other similar professional bodies i.e. LSK, ICPSK and AKI which are similarly reporting institutions have cited this provision as being discriminatory in law, and championed have their inclusion as well.

- (b) section 25(5)(a) of the Act be amended to change the term of the Director-General of the FRC to a single term of six (6) years. They submitted that the justification for the proposed amendment is to—
- (i) align the term limit of the Director General of the Financial Reporting Centre with the term limits of Heads of similar counterpart similar agencies such as Ethics and Anti-Corruption Commission, whose Secretary/CEO has a one six-year non-renewable term. This is crucial given the fact that POCAMLA has guaranteed the independence and autonomy of the Centre to enable it plays its critical AML/CFT role of providing financial intelligence to law enforcement agencies for investigation, as well as the primary AML/CFT regulation and supervision of the Country's Financial and Designated Non-Financial Businesses and Professions (DNFBPs) sectors.
 - (ii) secure the tenure of the Director General, ensuring that he/she can execute his/her mandate without the potential and inherent pressure associated with term renewal, a decision which is dependent on a number of state actors. The amendment providing a one fix term shall safeguard against the Director General making undue decision on the premises of expecting favourable renewal considerations, which can likely compromise the effectiveness of the Centre.
 - (iii) align the Act with the recent enactment of the Anti-Money Laundering and Combating of Terrorism Laws (Amendment) Act, 2023 which amended section 2(b) of the State Corporation Act, (Cap 446) to exempt FRC from being a State Corporation. The import of the amendment is that it excluded FRC from the jurisdiction of State Corporation and reinforced its autonomy and independence.
 - (iv) align the Act with FATF standards and best practice on the autonomy and independence of Heads of Financial Intelligence Units.

25. Henia Anzala and Associates proposed that—

- (a) Section 49 of the Act be amended to replace the Cabinet Secretary with the President as the appointing authority of the chairperson of the AMLAB
- (b) Section 55A of the Act be amended to remove the Attorney General as the Chairperson of the ARAAB to be replaced by a person appointed by the President and that the Solicitor General be included as a member of the Board.
- (c) Section 55B of the Act be amended to allow the ARAAB to oversee the ARA.

Committee observations

26. The Committee observed that there was a need to align any further proposed amendments to the Proceeds of Crime and Ant-Money Laundering Act with the principal object of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee agreed with the proposals made by the Law Society of Kenya with respect to the term of the Director-General of the FRC; and the Ministry of Mining on the definition of “dealer in precious stones or metals”.

27. The Committee did not agree to include the other proposals in the current Bill. To allow for further interrogation, the proposals could be introduced as substantive amendments to the Act in the future.

Further amendments to the Prevention of Terrorism Act (Cap. 59B)

28. Transparency International submitted that the proposed section 5A (2) be amended to enhance the penalties provided for corporate/legal persons. It stated that the penalties are weak and need to be made more stringent, for instance, revocation of licences for offenders. It was their view that Kshs. 20M is an insignificant proportion for multinational companies as they have the financial capacity whose leadership should be held accountable.

29. ICPAK proposed that section 40E(2)(a) be amended to read as follows—

“Propose persons to the relevant sanctions committee based on credible evidence and objective criteria, such proposals shall not be influenced by personal interest, political considerations or any form of bias.”

Committee Observations

30. The Committee observed that there was a need to align any further proposed amendments to the Prevention of Terrorism Act with the principal object of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee did not agree to include the proposals in the current Bill. To allow further interrogation, the Committee shall introduce the proposals in a separate Bill.

Further amendments to the Public Benefits Organizations Act, 2013 (No.18 of 2013)

31. Transparency International noted that while the Bill empowers the PBORA to oversee organizations at risk of terrorism financing, it does not specify due diligence requirements for PBOs. It was its view that the Act be amended to outline clear compliance guidelines for PBOs on terrorism financing to complement the proposed amendments under Section 43A of the instant proposed Bill.

32. CSPEN proposed that section 43A(d) be redrafted in the affirmative so as to foster a collaborative relationship between regulatory bodies and PBOs and encourage compliance and mutual trust.

Committee Observations

33. The Committee observed that there was a need to align any further proposed amendments to the Public Benefits Organizations Act with the principal object of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee did not agree to include the proposals in the current Bill. To allow further interrogation, the Committee shall introduce the proposals in a separate Bill.

Further amendments to the Accountants Act (Cap. 531)

34. ICPAK proposed amendment of—

(a) the proposed new section 8A of the Act and recommended the development of a clear comprehensive Memorandum of Understanding (MoU) between ICPAK and the Financial Reporting Centre (FRC), as envisioned under section 36A (7) of the Proceeds

of Crime and Anti-Money Laundering Act, is essential to enhance coordination and cooperation between the two entities. It was its view that the MoU will enhance coordination and cooperation by clearly defining roles, responsibilities, and mechanisms for information sharing, dispute resolution and reporting.

- (b) the proposed new section 8B (2) of the Act and recommended that the prescribed penalties be scaled in proportion to the size and resources of the entity. For smaller entities, a more flexible, remedial approach such as warnings, guidance, or opportunities for training should be considered as part of a tiered penalty system. It was its view that this will ensure that smaller organizations are not unduly burdened, while still promoting compliance with AML/CFT regulations.

Committee Observations

- 35. The Committee observed that there was a need to align any further proposed amendments to the Accountants Act with the principal object of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee did not agree to include the proposals in the current Bill. To allow further interrogation, the Committee shall introduce the proposals in a separate Bill.

Further amendments to the Estate Agents Act (Cap. 533)

- 36. EARB proposed that—

- (a) the proposed section 28(3) be renumbered to section 28(4) and introduce a new section 28(3) as follows—
 - (a) *“The Board shall categorize Estate Agents based on their training, experience and any other suitable criteria.*
 - (b) *The Board shall maintain a register of listed practicing Estate Agency Firms.*
 - (c) *All real estate purchasing and selling transactions by land buying companies and developers shall be handled by registered and practising estate agent(s)”*

EARB noted that the amendments would help the Board to execute its mandate under the proposed section 28(1) and 28(2).

- (b) prescribed penalties in section 29(2) are not fair as there are many actors illegally practicing as estate agents; high penalty will discourage registration; many actors will continue practicing illegally. It also stated that the penalty for practicing as unregistered estate agent is 20,000, a high penalty will only discourage them from registering. It also submitted that there is no requirement that unregistered actors to be reporting agent and therefore the Board has no mandate for regulating and supervising unregistered actors practicing as estate agents.
 - (c) section 29(2) be amended by the reducing the penalties to not exceeding Kshs.500,000, Kshs.100,000 and Kshs.10,000 in paragraphs (a), (b) and (c) respectively.
- 37. EANG proposed—
 - (a) The incorporation of stringent registration, enhancing digital and inter-agency oversight and addressing both domestic and international engagement with unregistered estate agents in the amendments. It proposed mandatory licencing of estate agents, real estate business registration with FRC as Designated Non-Financial Business and Professions and a centralized transaction monitoring.
 - (b) licencing and regulation of Multiple Listing Services (MLS) and digital platforms to enhance digital oversight and reporting. It was its view that to strengthen compliance all estate agents should undergo a mandatory AML-CFT training and certification. It

further proposed additional mandatory regulatory measures such business entity registration, trade licences and permits, tax compliance, legal and developer obligations, prohibition of facilitating benefits to unregistered estate agents. It also emphasized on international and cross-border oversight to ensure compliance of local regulations by international clients, regulation of foreign engagement via social media and cross-border transaction monitoring.

37. CSPEN submitted that—

- (a) there is need to impose sanctions on real estate agents that are not registered under the Act. It submitted that the effectiveness of the sanctions prescribed under the AML/CFT framework is undermined, as enforcement mechanisms remain largely ineffective in the absence of comprehensive sectoral oversight. Addressing the gap is critical in streamlining the AML/CFT regime and mitigating the risks posed by the sector.
- (b) cash transactions above a specific threshold in real estate transactions should be prohibited. It stated that electronic transactions through licensed financial institutions will ensure traceability and prevent cash-based money laundering and require estate agents, law firms and financial institutions involved in property transactions to conduct enhanced due diligence and report suspicious transactions to FRC.

Committee Observations

38. The Committee observed that there was a need to align any further proposed amendments to the Estate Agents Act with the principal object of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee agreed with the submission to enhance the penalties applicable to unregistered persons acting as estate agents.

Further amendments to the Mining Act (Cap 306)

39. The Ministry of Mining, Blue Economy and Maritime Affairs proposed—

- (a) that the provisions of the proposed new section 16B on penalties for violations relating to money laundering and terrorism financing be inserted immediately after section 212 as section 212A. It stated that all the offences and penalties under the Mining Act are covered in Part XIV (Monitoring, Compliance and Enforcement) which covers sections 196 to 216. The provision therefore falls under this part of the Mining Act.
- (b) that the proposed new sections 16A and 16B on the functions of the Director of Mines relating to anti-money laundering and countering the financing of terrorism purposes be inserted after section 20 which provides for the functions of the Director of Mines.
- (c) the amendment of the proposed section 16A(2)(g) on the power of the Director of Mines to issue regulations, guidelines or directions because the Cabinet Secretary is the one with the powers to make regulations.

Committee Observations

40. The Committee observed that there was a need to align any further proposed amendments to the Mining Act with the principal object of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee agreed to the amendments proposed by the Ministry with

respect to the power of the Director of Mines to issue regulations in the proposed section 16A(2)(g) of the Act.

Amendments to Acts not contained in the Bill

41. The LSK submitted proposed amendments to various other laws relating to anti-money laundering and countering the financing of terrorism that were not published as part of the Bill, as follows—

(a) Amendment of section 40 of the **Kenya Citizenship and Immigration Act, Cap 170** by inserting a new subsection 40(2A) immediately after subsection 40(2)—

“(2A) An application for work and or business permit shall be made by an advocate to the Director in the prescribed manner.”

It stated that the proposal seeks to curtail fraud and misuse of permits by individuals engaging in illegal business activities in order to maintain economic integrity.

(b) Amendment of section 5(1) of the **Trustees (Perpetual Succession) Act Cap, 164** by deleting subsection (1) and substitute therefor for the following new subsection—

“(1) An application to the Registrar for a certificate under this Act shall be in writing, signed by the Advocate making it and shall contain the several particulars specified in the First Schedule, or such of them as shall be applicable to the case.”

LSK stated that the proposal seeks to ensure that applications for registration of trusts are made through Advocates and thereby ensuring that trust that are registered are in compliance with AML/CFT regulations.

(c) Amendment of section 13(1) of the **Companies Act, Cap 486** by deleting subsection (1) and substituting therefor the following new subsection—

“(1) A person who wishes to register a company shall, through an Advocate, lodge with the registrar –

(a) An application for registration of the company that complies with subsection (2) and (4)

(b) A memorandum of association of the company; and

(c) Except as provided by section 21, a copy of the proposed articles of association.”

LSK stated that the proposal seeks to ensure that companies are registered through Advocates who are regulated by the POCAMLA thereby ensuring enhanced due diligence; compliance with reporting obligations to the FRC; professional and ethical oversight and reduction of unscrupulous or unregulated agents facilitating company formation for illicit actors.

(d) Amendment section 74 of the **Companies Act, Cap. 486** to insert the following new subsection 2(c) immediately after subsection 2(b)—

“(c) is made through an Advocate.”

LSK noted that conversion of a private company is a fundamental change to the structure of a company which could lead to loopholes in terms of compliance due to the change in structure. The proposal will ensure prevention of regulatory arbitrage; and scrutiny of capitalization and fund injections.

(e) Deletion of subsection 975(1) of the **Companies Act, Cap. 486** and substitution with the following new subsection—

“(1) Subject to this part, a foreign company that wishes to be registered as a foreign company shall through an Advocate, lodge with the registrar an application that is in accordance with this Division.”

LSK stated that this proposal seeks to ensure that companies are registered through Advocates who are regulated by the POCAMLA thereby ensuring enhanced due diligence; compliance with reporting obligations to the FRC; professional and ethical

oversight and reduction of unscrupulous or unregulated agents facilitating company formation for illicit actors.

- (f) Amendment of section 36 of the **Land Registration Act, Cap. 300** to insert the following new subsection (8A) immediately after subsection (8)—

“(8A) Any proposition to deal in land in the manner proposed in subsection (8) above can only be carried out by an Advocate of the High Court of Kenya.”

LSK stated that the proposal seeks to smoke out persons who illegally and fraudulently procure the consent of validly registered proprietors of land and deal with such land based on irregularly acquired consent.

- (g) Amendment of the **Land Registration Act, Cap. 300** to insert the following new section 36A—

“36A. The execution of any instrument relating to any disposition and dealings affecting land must be effected in the presence of an Advocate of the High Court of Kenya, a magistrate, a judge or a notary public.”

LSK submitted that this proposal aims to ensure that any disposition relating to land is executed by persons who are bound by professionally approved ethics and standards. It stated that this will help reduce cases of land fraud.

- (h) Deletion of subsection 44 (2) of the **Land Registration Act, Cap. 300** and substitution therefor the following new subsection—

“(2) The execution of any instrument referred to in subsection (1) by a person shall consist of appending a person’s signature on it or affixing the thumbprint or other mark as evidence of personal acceptance of that instrument. Such execution shall be done in the presence of an advocate”

LSK submitted that the proposal seeks to further affirm the proposal requiring that instruments relating to land are executed by an advocate of the High Court of Kenya over and above them being in writing. It stated that this ensures that transactions in land are not regularized just by virtue of being in writing.

- (i) Amendment of section 12A of the **Land Act, Cap. 280** to delete subsection (2) and substitute therefor the following new subsection—

*“(2) No transaction in controlled land including a transfer for a consideration by way of trusts, gift *inter vivos* or otherwise to an eligible person shall be dealt with unless such a transaction is done through an Advocate of the High Court of Kenya and without the prior written approval of the Cabinet Secretary.”*

LSK stated that the proposal seeks to ensure that transaction with regards to controlled land are carried out by an Advocate of the High Court of Kenya who can be put to account and is answerable to relevant authorities in case of any irregularities.

Committee Observations

42. The Committee observed that there was a need to align any proposed amendments to Acts not covered in the Bill with the provisions of the National Assembly Standing Orders and the objects of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee did not agree to include the proposals in the current Bill as they would unduly expand the subject of the Bill. To allow for further interrogation, the proposals could be introduced as substantive amendments in the future.

CHAPTER FOUR

4 COMMITTEE OBSERVATIONS

43. Upon reviewing the Bill and the submissions received, the Committee made the following observations:

- (a) The Bill seeks to amend various Acts of Parliament to align them to the international standard on combating terrorism financing and financing of proliferation of weapons of mass destruction as prescribed by the Financial Action Task Force (FATF);
- (b) The Bill is necessary to ensure compliance with global standards on anti-money laundering and combating of terrorism financing and proliferation financing through improving the powers of designated non-financial businesses and professions to conduct anti-money laundering and combating of terrorism financing risk-based supervision and inspection of reporting institutions.
- (c) The proposed amendments to the Betting, Lotteries and Gaming Act; the Retirement Benefits Act; the Mining Act; the Sacco Societies Act; the Accountants Act; the Estate Agents Act; and the Certified Public Secretaries of Kenya Act seek to give the respective entities supervisory powers for anti-money laundering and combating of terrorism and proliferation acts financing. These proposed amendments are in line with the provisions of section 36A (3) of the Proceeds of Crime and Anti-Money Laundering Act which states that the obligation of supervising and enforcing compliance with the Act is placed on a supervisory body and this obligation shall constitute a core function of the supervisory body.
- (d) The Bill seeks to revise the framework for regulation and oversight of non-governmental organizations which was informed by the results of Non-Profit Organizations Task Force risk assessment. In that regard, the Proceeds of Crime and Anti-Money Laundering Act is amended by removing non-governmental organizations as reporting institutions and removing Non-Governmental Organizations Co-ordination Board as a supervisory body to comply with FATF standards.
- (e) During public participation, various entities and stakeholders proposed amendments to various sections and Acts of Parliament not contained in the Bill. For example, LSK proposed a raft of amendments to the Kenya Citizenship and Immigration Act; the Companies Act; the Land Act; the Land Registration Act and the Trustee (Perpetual Succession) Act. They stated that these amendments were to allow LSK effectively carry out its supervisory mandate over advocates in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act which declares LSK to be a self-regulatory body. These amendments would unduly expand the subject of the Bill. Therefore, the Committee shall introduce the proposals in a separate Bill.

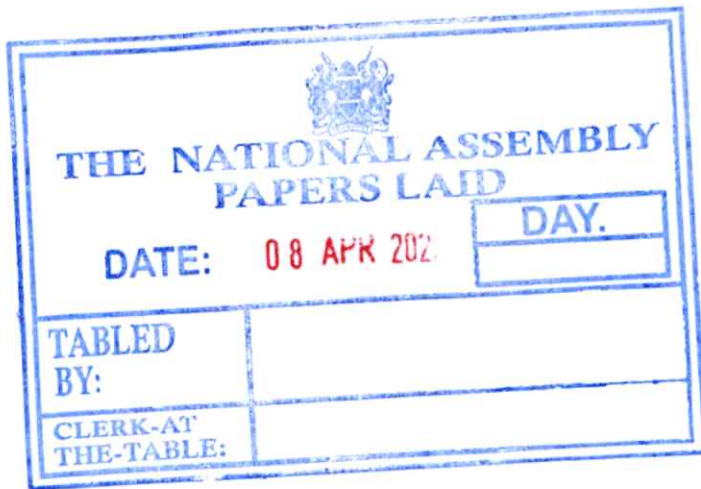
CHAPTER FIVE

5 COMMITTEE RECOMMENDATIONS

44. The Committee, having considered the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (*National Assembly Bills No. 5 of 2025*) and the submissions from members of the public and stakeholders, **recommends that the House approves the Bill with amendments as proposed in the Schedule of Amendments.**

SIGNED.......... DATE.....*8.4.2025*.....

HON. GEORGE GITONGA MURUGARA, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS



CHAPTER SIX

6 SCHEDULE OF AMENDMENTS

1. **THAT** the Schedule to the Bill be amended—
 (a) in the proposed amendments to the **Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)**—

- (i) in the proposed amendments to section 2 in the proposed new definition of “dealer in precious stone or metals” by deleting paragraph (a) and substituting therefor the following new paragraph—
 “(a) mining operations;”

Justification: the term mining operations as used in the Mining Act covers the extraction or production of precious metals and stones.

- (ii) by deleting the definition of “Public Benefit Organizations Regulatory Authority”

Justification: The amendments to the Proceeds of Crime and Anti-Money Laundering Act seek to remove the Non-Governmental Organizations, now referred to as Public Benefit Organizations, from the ambit of regulation and supervision for anti-money laundering and combating of terrorism. Therefore, there is no need to define the term.

- (iii) by deleting the proposed amendment to section 55A and substituting therefor the following new amendment—

Delete the marginal note and substitute it with the following marginal note—
Assets Recovery Agency Advisory Board

Justification: To correct an error in the name of the Advisory Board

- (iv) by deleting the proposed amendment to section 55A(1) and substituting therefor the following new amendment—

Delete the opening statement of subsection (1) and substitute therefor the following new opening statement—

(1) There is established an advisory board to be known as the Assets Recovery Agency Advisory Board which shall consist of—

Justification: To correct an error in the name of the Advisory Board

- (v) by inserting the following amendment in proper chronological sequence—

<i>Provision</i>	<i>Amendment</i>
s.25(5)	Delete paragraph (a) and substitute therefore the following paragraph— (a) for a non-renewable term of six years; and
s. 25(6)	Delete.

Justification: To align the term limit of the Director General of the Financial Reporting Centre with the term limits of heads of similar counterpart similar agencies such as Ethics and Anti-Corruption Commission, whose Secretary/CEO has a one six-year non-renewable term. The amendment also seeks to clean up the paragraph.

- (b) in the proposed amendments to the **Mining Act (Cap. 306)** in the proposed new section 16A(2)(g) by deleting the word “regulations” appearing immediately after the word “issue”.

Justification: Under the mining Act, regulations are made by the Cabinet Secretary and not the Director of Mines.

- (c) in the proposed amendments to the **Estate Agents Act (Cap. 533)** by inserting the following amendment in proper chronological sequence—

<i>Provision</i>	<i>Amendment</i>
s.18(2)	Delete and substitute therefore the following subsection— (2) A person who contravenes the provisions of this section shall be liable, upon conviction— (a) in case of a legal person, to a penalty not exceeding five million shillings; (b) in the case of a natural person, to a penalty not exceeding one million shillings; and (c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

Justification: To enhance the penalties applicable to unregistered persons acting as estate agents.

NEW CLAUSE

2. **THAT**, the Bill be amended by inserting the following new Clause immediately after Clause 2—

Saving and transition. Cap. 59A.	3. A person who, immediately before the commencement of this Act, held office as the Director General of the Financial Reporting Centre shall continue to hold that office as if appointed under section 25 of the Proceeds of Crime and Anti-Money Laundering Act.
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Justification: To provide for transition for the current Director-General of the FRC in light to the amendment in the term of office.

Annexure 1

Adoption Schedule



DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

ADOPTION OF THE COMMITTEE REPORT ON ITS CONSIDERATION OF THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 5 OF 2025)

We, the Members of the Departmental Committee on Justice and Legal Affairs have, pursuant to Standing Order 199, adopted this Report of the Committee on its Consideration of The Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (National Assembly Bill No. 5 of 2025), and affixed our signatures to affirm our approval and confirm its accuracy, validity and authenticity:

1. Hon. Murugara George Gitonga, CBS, MP - Chairperson
2. Hon. Mutuse Eckomas Mwengi, OGW, MP - Vice Chair
3. Hon. Maalim Farah, EGH, MP
4. Hon. Francis Kajwang' Tom Joseph, MP
5. Hon. Gladys Boss, MGH, MP
6. Hon. Onyiego Silvanus Osoro, CBS, MP
7. Hon. (Dr.) Otiende Amollo, SC, MP
8. Hon. Muchira Michael Mwangi, MP
9. Hon. Makali John Okwisia, MP
10. Hon. Timothy Wanyonyi Wetangula, CBS, MP
11. Hon. Muchangi Karemba, CBS, MP
12. Hon. CPA Zuleka Hulbale Harun, MP
13. Hon. Mogaka Stephen M., MP
14. Hon. Aden Daud, EBS, MP
15. Hon. Siyad Amina Udgoon, MP

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Annexure 2

Minutes



THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - FOURTH SESSION-2025
DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

**MINUTES OF THE 23rd SITTING OF THE DEPARTMENTAL COMMITTEE
ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY, 8TH APRIL 2025 AT
10:00 AM IN 5TH FLOOR COMMITTEE ROOM, CONTINENTAL HOUSE,
PARLIAMENT BUILDINGS**

MEMBERS PRESENT

1. Hon. Murugara George Gitonga, CBS, MP - *Chairperson*
2. Hon. Mutuse Eckomas Mwangi, OGW, MP – *Vice Chairperson*
3. Hon. (Dr.) Otiende Amollo, SC, MP
4. Hon. Muchira Michael Mwangi, MP
5. Hon. Mogaka Stephen M., MP
6. Hon. Aden Daud, EBS, MP
7. Hon. Siyad Amina Udgoon, MP
8. Hon. Muchangi Karemba, CBS, MP
9. Hon. CPA Zuleka, Hulbale Harun, MP

MEMBERS ABSENT WITH APOLOGIES

1. Hon. Gladys Boss, MGH, MP
2. Hon. Maalim Farah, EGH, MP
3. Hon. Francis Kajwang' Tom Joseph, CBS, MP
4. Hon. Onyiego Silvanus Osoro, CBS, MP
5. Hon. Wetangula Timothy Wanyoyi, CBS, MP
6. Hon. Makali John Okwisia, MP

SECRETARIAT

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|------------------------|---|--|
| 1. Mr. Ahmed Salim | - | Clerk Assistant I / Lead Clerk |
| 2. Mr. Ronald Walala | - | Senior Legal Counsel |
| 3. Mr. Abdikafar Abdi | - | Clerk Assistant III |
| 4. Ms. Jael Kilaka | - | Clerk Assistant III |
| 5. Mr. Abdirahim Omar | - | Fiscal Analyst I |
| 6. Mr. Isaac Nabiswa | - | Legal Counsel I |
| 7. Ms. Vivienne Ogega | - | Research Officer III |
| 8. Mr. Meldrick Sakani | - | Audio Officer |
| 9. Mr. Calvin Karungo | - | Media Relations Officer |
| 10. Mr. Rose Njuki | - | Serjeant-at-Arms |
| 11. Mr. Nimrod Misoi | - | Attaché, Justice & Legal Affairs Committee |

AGENDA

1. Prayers / Preliminaries;
2. Confirmation of the previous minutes;
3. Adoption of the Report on approval hearing of Hon. Judith Nayaiai Ramaita Pareno for appointment as the principal secretary of the State Department for Justice, Human Rights and Constitutional Affairs in the Office of the Attorney General & Department for Justice;
4. Adoption of the Report on the Consideration of the Anti-Money Laundering and Combating of Terrorism Financing Laws (amendment) Bill, 2025 (National Assembly Bill No. 5 of 2025);
5. Any Other Business; and
6. Adjournment / Date of the Next Meeting

MIN. NO. DDC/JLAC/096/2025: PRELIMINARIES

The meeting was called to order at five minutes past ten o'clock by the Chairperson followed by a word of prayer from the Session Chairperson and thereafter Members introduced themselves. The agenda of the meeting was adopted having been proposed by Hon. Muchira Michael Mwangi, MP and seconded by Hon. Mogaka Stephen M., MP.

MIN. NO. DDC/JLAC/097/2025: CONFIRMATION OF MINUTES

1. Minutes of the 20th Sitting of the Committee held on 10th March 2025 were adopted as a true reflection of the proceedings, having being proposed by Hon. Aden Daud, EBS, MP and seconded by Hon. Muchira Michael Mwangi, MP.
2. Minutes of the 21st Sitting of the Committee held on 3rd April 2025 were adopted as a true reflection of the proceedings, having being proposed by Hon. Mutuse Eckomas Mwangi, OGW, MP and seconded by Hon. (Dr.) Otiende Amollo, SC, MP.
3. Minutes of the 22nd Sitting of the Committee held on 7th April 2025 were adopted as a true reflection of the proceedings, having being proposed by Hon. Mutuse Eckomas Mwangi, OGW, MP and seconded by Aden Daud, EBS, MP.

MIN. NO. DDC/JLAC/098/2025: APPROVAL HEARING OF HON. JUDITH NAYAIAI RAMAITA PARENO FOR APPOINTMENT AS THE PRINCIPAL SECRETARY OF THE STATE DEPARTMENT FOR JUSTICE, HUMAN RIGHTS AND CONSTITUTIONAL AFFAIRS IN THE OFFICE OF THE ATTORNEY GENERAL & DEPARTMENT FOR JUSTICE;

Members were taken through the report and made the following observations:

- i. The Department for Justice in the Office of the Attorney-General has been a substantive Ministry since independence and has since evolved to a Department within the Office of the Attorney-General. However, some statutes still refer to a Principal Secretary responsible for justice and therefore, there is need for the appointing authority, through an Executive Order on Organization of the Government of the Republic of Kenya, to distinguish the two offices.
- ii. There is need to streamline the functions of the Principal Secretary and those of the Solicitor-General to avoid disagreement and conflict of interest. While it is important to streamline justice and human rights issues and constitutionalism, the office of the

Principal Secretary for Justice, Human Rights and Constitutional Affairs could be domiciled in a separate Ministry.

- iii. While Article 152(1)(c) of the Constitution provides that the Attorney-General is part of the Cabinet, the Office of the Attorney-General Act, Cap 6A designates the Office of the Attorney-General as an independent office. There is need to streamline the provisions of the Act with the Constitution.

Committee Recommendation

Having considered the approval hearing for the nominee pursuant to Article 155(3) of the Constitution, section 46 of the Public Service Commission Act, Cap 185 and sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, Cap 7F, the Committee resolved to recommend that the National Assembly approves the appointment of Hon. Judith Nayaiai Ramaita Pareno to the Office of the Principal Secretary of the State Department for Justice, Human Rights and Constitutional Affairs in the Office of the Attorney-General and Department for Justice.

Adoption of the Report

The report was adopted having being proposed by Hon. (Dr.) Otiende Amollo, SC, MP and seconded by Hon. Muchira Michael Mwangi, MP.

MIN. NO. DDC/JLAC/099/2025:

REPORT ON THE CONSIDERATION OF THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 5 OF 2025)

Members were taken through the report and made the following observations:

- i. The Bill seeks to amend various Acts of Parliament to align them to the international standard on combating terrorism financing and financing of proliferation of weapons of mass destruction as prescribed by the Financial Action Task Force (FATF);
- ii. The Bill is necessary to ensure compliance with global standards on anti-money laundering and combating of terrorism financing and proliferation financing through improving the powers of designated non-financial businesses and professions to conduct anti-money laundering and combating of terrorism financing risk-based supervision and inspection of reporting institutions.
- iii. The proposed amendments to the Betting, Lotteries and Gaming Act; the Retirement Benefits Act; the Mining Act; the Sacco Societies Act; the Accountants Act; the Estate Agents Act; and the Certified Public Secretaries of Kenya Act seek to give the respective entities supervisory powers for anti-money laundering and combating of terrorism and proliferation acts financing. These proposed amendments are in line with the provisions of section 36A (3) of the Proceeds of Crime and Anti-Money Laundering Act which states that the obligation of supervising and enforcing compliance with the Act is placed on a supervisory body and this obligation shall constitute a core function of the supervisory body.
- iv. The Bill seeks to revise the framework for regulation and oversight of non-governmental organizations which was informed by the results of Non-Profit Organizations Task Force risk assessment. In that regard, the Proceeds of Crime and Anti-Money Laundering Act is amended by removing non-governmental organizations as reporting institutions and removing Non-Governmental Organizations Co-ordination Board as a supervisory body to comply with FATF standards.

- v. During public participation, various entities and stakeholders proposed amendments to various sections and Acts of Parliament not contained in the Bill. For example, LSK proposed a raft of amendments to the Kenya Citizenship and Immigration Act; the Companies Act; the Land Act; the Land Registration Act and the Trustee (Perpetual Succession) Act. They stated that these amendments were to allow LSK effectively carry out its supervisory mandate over advocates in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act which declares LSK to be a self-regulatory body. These amendments would unduly expand the subject of the Bill. Therefore, the Committee shall introduce the proposals in a separate Bill.

Committee Recommendation

The Committee, having considered the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (*National Assembly Bills No. 5 of 2025*) and the submissions from members of the public and stakeholders, resolved to recommend that the House approves the Bill with amendments.

Adoption of the Report

The report was adopted having being proposed by Hon. Aden Daud, EBS, MP and seconded by Hon. Muchangi Karemba, CBS, MP.

MIN. NO. DDC/JLAC/100/2025: ANY OTHER BUSINESS

The Committee resolved to have a working retreat in Mombasa from 4th May 2025 to 11th May 2025 to consider all the business pending before the Committee. All agencies under the purview of the Committee to be invited.

MIN. NO. DDC/JLAC/101/2025: ADJOURNMENT

The meeting was adjourned at forty minutes past eleven o'clock. The next sitting to be held on Thursday, 10th April 2025.

SIGNED:  DATE: 8. 4. 2025
(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, CBS, MP)

Annexure **3**

Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (National Assembly Bill No. 5 of 2025)

SPECIAL ISSUE

Kenya Gazette Supplement No. 24 (National Assembly Bills No. 5)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2025

NAIROBI, 11th February, 2025

CONTENT

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**NATIONAL ASSEMBLY
RECEIVED**

04 MAR 2025

**DIRECTOR LEGAL SERVICES
P. O. Bo 41842-00100, NAIROBI**

SPECIAL ISSUE

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**THE ANTI-MONEY LAUNDERING AND
COMBATING OF TERRORISM FINANCING LAWS
(AMENDMENT) BILL, 2025**

A Bill for

AN ACT of Parliament to amend the laws relating to anti-money laundering and combating of terrorism financing and proliferation financing; and for connected purposes

ENACTED by Parliament of Kenya, as follows—

1. This Act may be cited as the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2025.

Short title.

2. The laws specified in the first column of the Schedule are amended in the provisions specified in the second column thereof, in the manner respectively specified in the third column.

Amendment of written laws.

SCHEDULE

Written law Provision Amendment

The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)

s.2

Insert the word “General” immediately after the word “Director” in the definition of the words “Agency Director”.

Delete the words “Agency Director” appearing in paragraph (c) in the definition of the words “authorised officer” and substitute therefor the words “Agency Director-General.

In the definition of “designated non-financial businesses or professions” —

- (a) delete the words “dealing in” appearing in paragraph (c) and substitute therefor the words “dealers in”;

(b) delete the words “dealing in” appearing in paragraph (d) and substitute therefor the words “dealers in”;

(c) by deleting paragraph (f).

Insert the following new definitions in proper alphabetical sequence—

“dealer in precious stones or metals” includes a person engaged in—

(a) the production of precious metals, precious stones or mining operations;

(b) intermediate buying and brokering of precious stones and precious metals;

(c) the cutting, polishing and refining of precious stones and precious metals;

(d) the manufacturing of jewellery;

(e) the retail selling of precious stones and precious metals.

No 18 of 2013

“Public Benefit Organizations Regulatory Authority” means the Public Benefit Organizations Regulatory Authority established under section 34 of the Public Benefits Organizations Act, 2013.

s.11 Delete subsection (1) and substitute therefor the following new subsection—

(1) A reporting institution that fails to comply with any requirements of sections 44, 45, 46, 47 and 47A or of any regulations, commits an offence.

s.12(6) Delete the words “Agency Director” wherever they appear and substitute therefor the words “Agency Director-General”.

s.24B (1) Insert the words “the requirements of this Act,” immediately after the words “comply with”.

s.36C (f) Insert the words “where applicable” immediately before the word “to undertake”.

s. 36D Deleting subsection (1) and substituting therefor the following new subsection—

(1) The Centre, supervisory bodies and the self regulatory body shall, in fulfilling their obligations to effectively monitor reporting institutions, use a risk-based approach.

Delete subsection (2) and substitute therefor the following new subsection—

(2) The Centre, supervisory bodies and the self regulatory body shall, in applying a risk-based approach to supervision, ensure that they—

s. 6D(2)(c) Delete subparagraph (i) and substitute therefor the following new subparagraph—

- (i) the money laundering, terrorist financing and proliferation financing risks, and the policies internal controls and procedures associated with the business activities of a reporting institution, as identified by the Centre's, supervisory body's or self regulatory body's assessment of its risk profile;

Delete subparagraph (ii) and substitute therefor the following new subparagraph—

- (ii) the risks of money laundering, terrorist financing and proliferation financing in the country as identified within any information that is made available to the Centre, a supervisory body or the self regulatory body; and

s. 36D Delete subsection (3) and substitute therefor the following new subsection—

- (3) The Centre, a supervisory body or the self regulatory body shall review the assessment of the money

laundering, terrorist financing and proliferation financing risk profile of a reporting institution or group including the risks of non-compliance periodically, and when there are major events or developments in the management and operations of the reporting institution or group,

s.48 Insert the following new paragraph immediately after paragraph (b)—

(c) dealers in precious metals and dealers in precious stone when they engage in any cash transaction with a customer equal to or above fifteen thousand US Dollars.

s.53 Delete the marginal note and substitute therefor the following new marginal note—

The Agency and Agency Director-General

s.53(2) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.

s.53(2A) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.

s.53(3) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.

s.53(4) Delete the words “Agency

- Director” and substitute therefor the words “Agency Director-General”.
- s.53(5) Delete the words “Agency Director” wherever they appear and substitute therefor the words “Agency Director-General”.
- s.53A(3) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.53A(4) Delete the words “Agency Director” and substitute therefore the words “Agency Director-General”.
- s.53A(5) Delete the words “Agency Director” and substitute therefore the words “Agency Director-General”.
- s.53A Insert the following new subsection immediately after subsection (5)—
(5A) The Agency Director-General may designate such number of staff of the Agency investigators to conduct an investigation on behalf of the Agency.
- s.54A(5) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.54C(3)(a) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”
- s.54F(1) Delete the words “Agency Director” and substitute therefor the words “Agency Director-

- General”.
- s.54F(2) Delete the words “Agency Director” wherever they appear and substitute therefor the words “Agency Director-General”.
- s.55A Insert the word “Agency” immediately after the word “Recovery” in the marginal note.
- s.55A(1) Insert the word “Agency” immediately after the word “Recovery” in the opening statement.
- s.55A(1)(k) Delete the words “Agency Director” and substitute the words “Agency Director-General”
- s.55G Delete.
- s.61(1) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.61(5)(iii) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.64(1) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.64(6) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.64(7) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.64(8) Delete the words “Agency

- Director” and substitute therefor the words “Agency Director-General”.
- s.67(1) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.67(2) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.68(1) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.71(1) Insert the words “Agency Director-General or an investigator of the Agency” immediately after the words “police officer”.
- s.75(2) Delete the words “Agency Director” and substituting therefor the words “Agency Director-General”.
- s.82(1) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.83(1) Delete the words “Agency Director” wherever they appear and substitute therefor the words “Agency Director-General”.
- s.83(4) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.85(1) Insert the words “Agency Director-General or an investigator of the Agency”

- immediately after the words “police officer”.
- s.86(1) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.86(1)(a) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.90(1) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.90(2) Delete the words “Agency Director” and substituting therefor the words “Agency Director-General”.
- s.93(4) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.93(5) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.94(4) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.94(5) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.95(1) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.95(2) Delete the words “Agency

- Director” and substitute therefor the words “Agency Director-General”.
- s.99(1) Delete the words “Agency Director” and substitute therefor the words “Agency Director-General”.
- s.103(1) Insert the words “Agency Director-General or an investigator of the Agency” immediately after the words “police officer”, wherever it appears.
- s.103(2) Insert the words “Agency Director-General or an investigator of the Agency” immediately after the words “police officer”.
- s.103(3) Insert the words “Agency Director-General or an investigator of the Agency” immediately after the words “police officer”.
- s.105(1) Insert the words “Agency Director-General or an investigator of the Agency” immediately after the words “police officer”.
- s.106(1) Insert the words “Agency Director-General or an investigator of the Agency” immediately after the words “police officer”
- s.107(1) Insert the words “Agency Director-General or an investigator of the Agency” immediately after the words “police officer”, wherever it

appears.

s. 107(2) Insert the words “Agency Director-General or an investigator of the Agency” immediately after the words “police officer”.

s. 107(3)(c) Insert the words “Agency Director-General or an investigator of the Agency” immediately after the words “police officer”.

s. 107(5) Insert the words “Agency Director-General or an investigator of the Agency” immediately after the words “police officer”, wherever it appears.

s.124(3) Delete the words “Attorney-General” and substitute therefor the words “Agency Director-General”.

s.130C Delete the words “Agency Director” and substituting therefor the words “Agency Director-General”.

s.134 Inserting the following new subsection immediately after subsection (2)—

(3) Any Regulations made under this section may provide, in respect of any contravention thereof or non-compliance therewith, for the imposition of a sanction including—

(a) in the case of a natural person, imprisonment for a term not exceeding seven years or a fine not exceeding

		ten million shillings, or to both; and
		(b) in the case of a body corporate, a fine not exceeding twenty million shillings.
	First Schedule	Delete paragraph (g).
Prevention of Terrorism Act (Cap. 59B)	s. 2	Insert the following new definitions in proper alphabetical sequence— “Sanctions Committee” means a committee of the Security Council of the United Nations established under a Resolution of the Security Council; “terrorism financing” includes an offence under section 5 and 5A of the Act.
	s. 5A	Renumber the existing provision as subsection (1). Insert the following new subsection immediately after subsection (1)— (2) A person who commits an offence under subsection (1) shall be liable, upon conviction, to imprisonment for a term not exceeding twenty years in the case of a natural person or a fine not exceeding twenty million shillings in the case of a legal person.
	s. 29	Delete the words “who is a member of a terrorist group or”.
	s.30	Delete the words “held on behalf of a person”.
	s.30H(1)	Delete the expression

“14A”.

s.36A(1) Insert the words “and terrorism financing” immediately after the word “terrorism”.

s.36A(3) Insert the words “and terrorism financing” immediately after the word “terrorism”.

s.40E (2) Insert the following new paragraph immediately after paragraph (a)–

(aa) propose persons to the relevant Sanctions Committee;

s. 42A Delete and substitute therefor with the following section—

Role of the Financial Reporting Centre, supervisory bodies and self-regulatory body.

42A. (1) The Financial Reporting Centre, supervisory bodies and self-regulatory body shall have the power to—

(a) supervise and enforce the application of preventative measures to combat the financing of terrorism and combat the financing of proliferation acts by reporting

institutions;

(b) supervise and enforce the implementation of targeted financial sanctions by reporting institutions.

(2) For the purpose of this section –

(a) “preventative measures” include measures under PART IV of the Proceeds of Crime and Anti-Money laundering Act;

Cap 59A

(b) “supervisory body” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act;

Cap 59A

(c) “self-regulatory body” has the meaning assigned to it under section

Cap. 59A.

2 of the
Proceed of
Crime and
Anti-Money
Laundering
Act;

- (d) “targeted
financial
sanctions”
means both
assets
freezing and
prohibitions
to prevent
funds or
other assets
from being
made
available
directly or
indirectly for
the benefit of
designated
persons and
entities.

s.50

Delete subsection (4) and
substitute therefor the following
new subsection—.

(4) Any Regulations made
under this section may provide,
in respect of any contravention
thereof or non-compliance
therewith, for the imposition of
a sanction including—

- (a) in the case of a natural
person, imprisonment
for a term not
exceeding ten years;
and

		(b) in the case of a legal person, a fine not exceeding twenty million shillings.
Betting Lotteries and Gaming Act (Cap 131)	s.2	Insert the following new definition in proper alphabetical sequence—
	Cap 59B	“terrorism financing” has the meaning assigned to it under the Prevention of Terrorism Act
	New	a) Insert the following new sections immediately after section 29—
		29A. (1)
	Powers of the Board for anti-money laundering and countering the financing of terrorism purposes	Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, the Board shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Board and to whom the provisions of the Proceeds of Crime and Anti-
	Cap 59A	

Money Laundering Act apply.

(2) In undertaking its mandate under subsection (1), the Board may—

- (a) vet proposed significant shareholders, proposed beneficial owners, proposed directors, and senior employees of a reporting institution;
- (b) conduct onsite inspection;
- (c) conduct offsite surveillance;
- (d) undertake consolidated supervision of a reporting institution;
- (e) compel the production of any document or information the Board may require for the purpose of discharging

- its
supervisory
mandate
under the
Proceeds of
Crime and
Anti-Money
Laundering
Act;
- (f) impose
monetary,
civil or
administrative
sanctions
for violations
related to
anti-money
laundering,
combating
the financing
of terrorism
or countering
proliferation
financing
purposes;
- (g) issue
regulations,
guidelines,
directions,
rules or
instructions
for anti-
money
laundering,
combating
the financing
of terrorism
and
countering
proliferation
financing

purposes;

(h) co-operate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and

(i) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act and any regulations, guidelines, rules, instruction or direction made or issued thereunder.

Cap. 59A.

(3) For purposes of this section,

Cap 59A “reporting institution” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act

Penalties for violations relating to money laundering and terrorism financing

29B. (1) No director, officer, employer, agent or any other person in the company shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes.

(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—

- (a) in case of a legal person, to a penalty not exceeding five million shillings;
- (b) in the case of

a natural person, to a penalty not exceeding one million shillings; and
(c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

Retirement s.2
Benefits Act
(Cap. 197)

Insert the following new definition in proper alphabetical sequence—

Cap. 59B.
New

“terrorism financing” has the meaning assigned to it under the Prevention of Terrorism Act.

Insert the following new sections immediately after section 7—

Powers of anti-money laundering and countering the financing of terrorism purposes.

7A. (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, the Authority shall regulate, supervise and enforce compliance for anti-

money laundering,
combating the
financing of
terrorism and
countering
proliferation
financing purposes
by all reporting
institutions regulated
and supervised by
the Authority and to
whom the provisions
of the Proceeds of
Crime and Anti-
Money Laundering
Act apply.

(2) In
undertaking its
mandate under
subsection (1), the
Authority may —

- (a) vet proposed
significant
shareholders,
proposed
beneficial
owners,
proposed
directors and
senior
officers of a
reporting
institution;
- (b) conduct
onsite
inspection;
- (c) conduct
offsite
surveillance;

(d) undertake consolidated supervision of an institution and its group;

(e) compel the production of any document or information the Authority may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act;

Cap. 59A.

(f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes;

(g) issue

- regulations,
guidelines,
directions,
rules or
instructions
for anti-
money
laundering,
combating the
financing of
terrorism and
countering
proliferation
financing
purposes;
- (h) co-operate and
share
information
for anti-
money
laundering,
combating the
financing of
terrorism and
countering
proliferation
financing
purposes; and
- (i) take such
action as is
necessary to
supervise and
enforce
compliance by
reporting
institutions in
line with the
provisions of
the Proceeds

of Crime and Anti-Money Laundering Act and any regulations, guidelines, rules, instruction or direction made or issued thereunder.

Cap. 59A.

(3) For purposes of this section, "reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act.

Penalties for violations relating to money laundering and terrorism financing.

7B (1) No member, manager, custodian, administrator or any other person in a scheme or scheme fund shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering

proliferation
financing purposes.

(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—

(a) in case of a legal person, to a penalty not exceeding five million shillings

(b) in the case of a natural person, to a penalty not exceeding one million shillings; and

(c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

Mining Act s.4
(Cap. 306)

Insert the following new definition in proper alphabetical sequence—

Cap. 59B. "terrorism financing" has the meaning assigned to under the Prevention of Terrorism Act.

New Insert the following new sections immediately after section 16—

Powers of the Director for anti-money laundering and countering the financing of terrorism purposes.

16A. (1)

Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, the Director of Mines shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Director of Mines and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.

Cap. 59A.

(2) In undertaking its mandate under subsection (1), the Director of Mines

may—

- (a) vet proposed mineral rights holders and mineral dealers of a reporting institution;
- (b) conduct onsite inspection;
- (c) conduct offsite surveillance;
- (d) undertake consolidated supervision of mineral rights holders and mineral dealers;
- (e) compel the production of any document or information the Director may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering

Act;

- (f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes;
- (g) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
- (h) co-operate and share information for anti-money

laundering,
combating
the financing
of terrorism
and
countering
proliferation
financing
purposes;
and

(i) take such action
as is necessary
to supervise and
enforce
compliance by
reporting
institutions in
line with the
provisions of
the Proceeds of
Crime and
Anti-Money
Laundering Act
and any
regulations,
guidelines,
rules,
instruction or
direction made
or issued
thereunder.

Cap 59A

(3) For
purposes of this
section, "reporting
institution" has the
meaning assigned to
it under section 2 of
the Proceeds of
Crime and Anti-
Money Laundering

Cap 59A

Penalties
for
violations
relating to
money
launderin
g and
terrorism
financing.

Act

16B. (1) No mineral rights holders or mineral dealers or their agents shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes.

(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—

- (a) in case of a legal person, to a penalty not exceeding five million shillings;
- (b) in the case of a natural person, to a penalty not exceeding one million shillings; and
- (c) to additional penalties not

exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

Sacco Societies.2
Act (Cap.
490B)

Insert the following new definition in proper alphabetical sequence—

“terrorism financing” has the meaning assigned to under the Prevention of Terrorism Act.

Cap. 59B.

New

Insert the following new sections immediately after section 7—

Powers of Authority for anti-money laundering and countering the financing of terrorism purposes.

7A. (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, the Authority shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation

Cap. 59A.

financing purposes by all reporting institutions regulated

and supervised by the Authority and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.

(2) In undertaking its mandate under subsection (1), the Authority may—

- (a) vet proposed significant shareholders, proposed beneficial owners, proposed directors and senior officers of a reporting institution;
- (b) conduct onsite inspection;
- (c) conduct offsite surveillance;
- (d) undertake consolidated supervision of an institution and its group;
- (e) compel the production of any document or information the Authority may require

Cap 59A

- for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act;
- (f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes;
- (g) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and

- countering
proliferation
financing
purposes;
- (h) co-operate
and share
information
for anti-
money
laundering,
combating the
financing of
terrorism and
countering
proliferation
financing
purposes; and
- (i) take such
action as is
necessary to
supervise and
enforce
compliance by
reporting
institutions in
line with the
provisions of
the Proceeds
of Crime and
Anti-Money
Laundering
Act and any
regulations,
guidelines,
rules,
instruction or
direction
made or
issued

Cap. 59A.

thereunder.

(3) For purposes of this section, “reporting institution” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act

Cap 59A

Penalties for violations relating to money laundering and terrorism financing.

7B. (1) No member, director, officer, employer, agent or any other person in a Sacco society shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes.

(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—

(a) in case of a legal person, to a penalty not

- exceeding five million shillings;
- (b) in the case of a natural person, to a penalty not exceeding one million shillings; and
- (c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

Accountants s.2(1)
Act (Cap 531)

Insert the following new definition in proper alphabetical sequence—

Cap.59B.

“terrorism financing” has the meaning assigned to under the Prevention of Terrorism Act

New

Insert the following new sections immediately after section 8—

Powers of Institute for anti-money laundering and countering the financing of terrorism purposes. **8A.** (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering

Cap 59A

Act, the Institute shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Institute and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.

(2) In undertaking its mandate under subsection (1), the Institute may —

- (a) vet proposed members of a reporting institution;
- (b) conduct onsite inspection;
- (c) conduct offsite surveillance;
- (d) undertake consolidated supervision of a member of

Cap. 59A.

- the Institute;
- (e) compel the production of any document or information the Institute may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act;
- (f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes;
- (g) issue regulations, guidelines, directions, rules or instructions for

anti-money
laundering,
combating the
financing of
terrorism and
countering
proliferation
financing
purposes;

(h) co-operate and
share
information for
anti-money
laundering,
combating the
financing of
terrorism and
countering
proliferation
financing
purposes; and

(i) take such
action as is
necessary to
supervise and
enforce
compliance by
reporting
institutions in
line with the
provisions of
the Proceeds of
Crime and
Anti-Money
Laundering
Act and any
regulations,
guidelines,
rules,

instruction or direction made or issued thereunder.

Cap. 59A.

(3) For purposes of this section, "reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act

Penalties for violations relating to money laundering and terrorism financing.

8B. (1) No member of the Institute or a member, director, officer, employer, agent or any other person in the Council, Registration Board or the Examination Board shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes.

(2) A person who violates or fails to comply with the

provisions of subsection (1) shall be liable—

- (a) in case of a legal person, to a penalty not exceeding five million shillings;
- (b) in the case of a natural person, to a penalty not exceeding one million shillings; and
- (c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

Estate Agents s.2(1)
Registration
Act (Cap. 533)

Insert the following new definition in proper alphabetical sequence—

Cap 59B
New

“terrorism financing” has the meaning assigned to it under the Prevention of Terrorism Act.

Insert the following new sections immediately after section 27—

Powers of the Board for **28 (1)** Pursuant

anti-money laundering and countering the financing of terrorism purposes. to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, the Board shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Board and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.

(2) In undertaking its mandate under subsection (1), the Board may—

- (a) vet proposed members including beneficial owners of a reporting institution;
- (b) conduct onsite inspection;

- (c) conduct offsite surveillance;
- (d) undertake consolidated supervision of a reporting institution;
- (e) compel the production of any document or information the Board may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act;
- (f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes;
- (g) issue regulations, guidelines, directions, rules or

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instructions
for anti-
money
laundering,
combating the
financing of
terrorism and
countering
proliferation
financing
purposes;

(h) co-operate
and share
information
for anti-
money
laundering,
combating the
financing of
terrorism and
countering
proliferation
financing
purposes; and

(i) take such
action as is
necessary to
supervise and
enforce
compliance by
reporting
institutions in
line with the
provisions of
the Proceeds
of Crime and
Anti-Money
Laundering
Act and any

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regulations,
guidelines,
rules,
instruction or
direction
made or
issued
thereunder.

(3) For purposes
of this section,
"reporting
institution" has the
meaning assigned to
it under section 2 of
the Proceeds of
Crime and Anti-
Money Laundering
Act

Cap 59A

Penalties for
violations
relating to
money
laundering
and terrorism
financing

29. (1) No
member of a
reporting institution
shall violate or fail
to comply with the
regulations,
guidelines,
directions, rules or
instructions issued
for anti-money
laundering,
combating the
financing of
terrorism and
countering
proliferation
financing purposes.

(2) A person
who violates or fails
to comply with the
provisions of
subsection (1) shall
be liable—

- (a) in case of a legal person, to a penalty not exceeding five million shillings;
- (b) in the case of a natural person, to a penalty not exceeding one million shillings; and
- (c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

Certified Public Secretaries of Kenya Act (Cap. 534) s.2(1) Cap. 54B.

Insert the following new definition in proper alphabetical sequence—

“terrorism financing” has the meaning assigned to it under the Prevention of Terrorism Act.

New

Insert the following new sections immediately after section 7—

Powers of Institute for anti-money laundering and countering the financing

7A. (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money

of terrorism purposes
Cap 59A

Laundering Act, the Institute shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Institute and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.

(2) In undertaking its mandate under subsection (1), the Institute may —

- (a) vet proposed members of a reporting institution;
- (b) conduct onsite inspection;
- (c) conduct offsite surveillance;
- (d) undertake consolidated supervision of a member of

the Institute;

Cap. 59A.

- (e) compel the production of any document or information the Institute may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act;
- (f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes;
- (g) issue regulations, guidelines, directions, rules or instructions for

- anti-money
laundering,
combating the
financing of
terrorism and
countering
proliferation
financing
purposes;
- (h) co-operate and
share
information for
anti-money
laundering,
combating the
financing of
terrorism and
countering
proliferation
financing
purposes; and
- (i) take such
action as is
necessary to
supervise and
enforce
compliance by
reporting
institutions in
line with the
provisions of
the Proceeds of
Crime and
Anti-Money
Laundering
Act and any
regulations,
guidelines,
rules,

instruction or direction made or issued thereunder.

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(3) For purposes of this section, "reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act

Penalties for violations relating to money laundering and terrorism financing.

7B. (1) No member of the Institute or a member, director, officer, employer, agent or any other person in the Council, Registration Board or the Examination Board shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes.

(2) A person who violates or fails to comply with the

provisions of subsection (1) shall be liable—

(a) in case of a legal person, to a penalty not exceeding five million shillings;

(b) in the case of a natural person, to a penalty not exceeding one million shillings; and

(c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

Public Benefits s.2
Organizations
Act, 2013 (No.
18 of 2013)

Cap. 59B.

s.3

Insert the following new definition in proper alphabetical sequence—

“terrorism financing” has the meaning assigned to under the Prevention of Terrorism Act.

Insert the following new paragraph immediately after paragraph (h)—

- (i) provide mechanisms that safeguard public benefits organisations from the risk of money laundering, terrorism financing or proliferation financing.

New

Insert the following new sections immediately after section 43—

Power of the Authority to public benefit organisations at risk of terrorism financing.

43A. (1) The Authority shall have powers to oversight and monitor public benefit organizations that are at risk of terrorism financing and in particular shall—

- (a) periodically identify organizations that are likely to be at risk of terrorist financing abuse;
- (b) periodically conduct an assessment of the terrorism financing risks posed to such public benefit organizations;
- (c) develop focused, proportionate

and risk-based actions to address terrorism financing risks identified in paragraph (b);

- (d) ensure that the measures developed in paragraph (c) do not undermine the legitimate operations of public benefit organizations.

(2) The Authority shall ensure effective co-operation, co-ordination and information-sharing on public benefit organizations at risk of terrorism financing with the Financial Reporting Centre and relevant law enforcement authorities.

(3) The Authority shall have the power to issue regulations, guidelines, directions, rules or instructions for the public benefit

organisation that
have been
identified to be at
risk

(4) The
Authority may
impose monetary,
civil or
administrative
sanctions for
violations under the
Act.

(5) The
Authority may
impose monetary,
civil or
administrative
sanctions for
violations under the
Act.

MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to amend various Acts of Parliament relating to anti-money laundering, countering the financing of terrorism and countering the financing of proliferation of weapons of mass destruction in addressing the technical compliance deficiencies identified arising from the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) reporting and review by Financial Action Task Force and matters incidental thereto.

The Bill seeks to amend the following laws—

The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)

The Bill seeks to amend the Proceeds of Crime and Anti-Money Laundering Act by adopting the title Director General, the head of the Asset Recovery Agency, to align with other investigative agencies in the Country.

The Prevention of Terrorism Act (Cap. 59B)

The Bill proposes to amend the Prevention of Terrorism Act to expand the definition of “terrorism financing to include the offences stipulated under sections 5 and 5A of the Act. Further to this, the amendment seeks to align various provisions of the Act with FATF standards.

Betting Lotteries and Gaming Act (Cap. 131)

The Bill contains amendment to the Betting Lotteries and Gaming Act to empower and allow the Betting Control and Licencing Board to regulate and supervise entities that fall within its jurisdiction for anti-money laundering, counter financing of terrorism and counter proliferation financing.

The Retirement Benefits Act (Cap. 197)

The Bill seeks to amend the Retirement Benefits Act by strengthening the mandate of the Retirement Benefit Authority to regulate, supervise and enforce compliance of the entities under its watch for anti-money laundering, counter financing of terrorism and counter proliferation financing.

The Mining Act (Cap. 306)

The Bill contains amendment to the Mining Act to empower the Director of Mining, and in discharge of his functions, to regulate, supervise and enforce compliance of the persons under his supervision for anti-money laundering, counter financing of terrorism and counter proliferation financing.

The SACCO Societies Act (Cap. 490B)

The Bill seeks to amend the SACCO Societies Act by empowering Sacco Societies Regulatory Authority to regulate and supervise bodies under its purview for anti-money laundering, counter financing of terrorism and counter proliferation financing.

The Accountants Act (Cap. 531)

The Bill proposes to amend the Accountants Act to empower and allow the Institute of Certified Public Accountants of Kenya to, in discharge of its duties, regulate and supervise matters relating to anti-money laundering, counter financing of terrorism and counter proliferation financing.

Estate Agents Act (Cap. 533)

The Bill seeks to amend the Estate Agents Act to empower the Estate Agents Registration Board to regulate and supervise entities that fall within its jurisdiction for anti-money laundering, counter financing of terrorism and counter proliferation financing.

The Certified Public Secretaries of Kenya Act (Cap. 534)

The Bill proposes to amend the Certified Public Secretaries Act to strengthen the Institute of Certified Public Secretaries of Kenya to closely regulate and supervise issues relating to anti-money laundering, counter financing of terrorism and counter proliferation financing.

The Public Benefits Organizations Act, 2013 (No. 18 of 2013)

The Bill seeks to amend the Public Benefits Organisation Act to empower and allow the Public Benefits Regulatory Authority to oversight and monitor public benefits organisations that are at risk of terrorism financing in the Country.

Dated on the 11th February, 2025.

KIMANI ICHUNG'WAH,
Leader of the Majority Party.

Section 2 of Cap. 59A which it is intended to amend—

2. Interpretation

In this Act, unless the context otherwise requires—

"account" includes any facility or arrangement by which a reporting institution does any one or more of the following—

- (a) accepts deposits of monetary instruments;
- (b) allows withdrawals of monetary instruments or transfers into or out of the account;
- (c) pays cheques or payment orders drawn on a financial institution or collects cheques or payment orders on behalf of any person;
- (d) supplies a facility or arrangement for a safety or fixed term deposit box;

"accounting officer" means an accounting officer appointed under section 17 of the Government Financial Management Act (Repealed);"

Advisory Board" means the Asset Recovery Advisory Board established under section 55A;"

affected gift" means any gift made by the defendant at any time, if it was a gift of property—

- (a) received by that defendant in connection with an offence committed by him or any other person; or
- (b) any part thereof, which, directly or indirectly represents, in that defendant's hands, the property which that person received in that connection with an offence:

Provided that any such gift was made on or after the commencement of this Act;

"Agency" means the Assets Recovery Agency established under section 53(1);

"Agency Director" means the Director of the Agency appointed under section 53(2);

"authorised officer" means—

- (a) a police officer;
- (b) an officer of the department of the Kenya Revenue Authority for the time being responsible for matters relating to customs;
- (c) Agency Director; or

(d) any person or class of persons designated by the Cabinet Secretary as an authorised officer to perform any function under this Act;

"Board" means the Anti-Money Laundering Advisory Board established under section 49;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to finance;

"Centre" means the Financial Reporting Centre established under section 21;

"competent authority" means a public authority other than a self-regulatory body with designated responsibilities for combating money laundering, financing of terrorism and proliferation financing;

"confiscation order" means an order referred to in section 61;

"court" means a court of competent jurisdiction;

"customs" or "the customs" means the customs department of the Kenya Revenue Authority;

"data" means representations, in any form, of information or concepts;

"defendant" means a person against whom a prosecution for an offence has been instituted, irrespective of whether that person has been convicted or not;

"designated non-financial businesses or professions" means—

- (a) casinos (including internet casinos);
- (b) real estate agencies;
- (c) dealing in precious metals;
- (d) dealing in precious stones;
- (e) accountants who are sole practitioners, partners or employees within professional firms;
- (f) non-governmental organisations;
- (fa) trust and company service providers;
- (fb) advocates, notaries and other independent legal professionals who are sole practitioners, partners or employees within professional firms;

- (g) such other business or profession in which the risk of money laundering, financing of terrorism and proliferation financing exists as the Cabinet Secretary may, on the advice of the Centre, declare;

"Deputy Director" deleted by Act No. 16 of 2021, s. 2 (a);

"Director-General" means the Director-General appointed under section 25;

"document" means any record of information, and includes—

- (a) anything on which there is writing;
- (b) anything on which there are marks, figures, symbols, or perforations having meaning for persons qualified to interpret them;
- (c) anything from which sounds, images, writings or data can be retrieved, with or without the aid of anything else; or
- (d) a map, plan, drawing, photograph, video tape or similar thing;

"estate agency" in connection with the selling, mortgaging, charging, letting or management of immovable property or of any house, shop or other building forming part thereof, means doing any of the following acts—

- (a) bringing together, or taking steps to bring together, a prospective vendor, lessor or lender and a prospective purchaser, lessee or borrower; or
- (b) negotiating the terms of sale, mortgage, charge or letting as an intermediary between or on behalf of either of the principals;

"financial group" means a group that consists of a parent company or of any other type of legal person exercising control and coordinating functions over the rest of the group, together with branches or subsidiaries that are subject to Anti-Money Laundering and Combating of Terrorism Financing policies and procedures at the group level;

"financial institution" means any person or entity, which conducts as a business, one or more of the following activities or operations—

- (a) accepting deposits and other repayable funds from the public;
- (b) lending, including consumer credit, mortgage credit, factoring, with or without recourse, and financing of commercial transactions;
- (c) financial leasing;

- (d) transferring of funds or value, by any means, including both formal and informal channels;
- (e) issuing and managing means of payment (such as credit and debit cards, cheques, travellers' cheques, money orders and bankers' drafts, and electronic money);
- (f) financial guarantees and commitments;
- (g) trading in—
 - (i) money market instruments, including cheques, bills, certificates of deposit and derivatives;
 - (ii) foreign exchange;
 - (iii) exchange, interest rate and index funds;
 - (iv) transferable securities; and
 - (v) commodity futures trading;
- (h) participation in securities issues and the provision of financial services related to such issues;
- (i) individual and collective portfolio management;
- (j) safekeeping and administration of cash or liquid securities on behalf of other persons;
- (k) otherwise investing, administering or managing funds or money on behalf of other persons;
- (l) underwriting and placement of life insurance and other investment related insurance; and
- (m) money and currency changing;

Provided that this applies both to insurance underwriter and to insurance intermediaries including agents and brokers;

"fixed date", in relation to a defendant against whom—

- (a) a prosecution for an offence has been instituted, means the date on which such prosecution has been instituted; or
- (b) a restraint order has been made means the date of such restraints order, whichever is the earlier date;

"Fund" means the Criminal Assets Recovery Fund established under section 109;

"inspector" means a person designated as such under this Act;

"Kenya Revenue Authority" means the Kenya Revenue Authority established by section 3 of the Kenya Revenue Authority Act (Cap. 469);

"Minister" deleted by Act No. 16 of 2021, s. 2 (d);

"monetary instruments" means —

- (a) coins and paper currency designated as legal tender of Kenya or of a foreign country and which is customarily used and accepted as a medium of exchange in Kenya or the country of issue;
- (b) travellers' cheques, personal cheques, bank cheques, money orders or securities;
- (c) any other negotiable instrument which is in bearer form, or other form through which title passes upon delivery;

"money laundering" means an offence under any of the provisions of sections 3, 4 and 7;

"offence" in this Act, means an offence against a provision of any law in Kenya, or an offence against a provision of any law in a foreign state for conduct which, if it occurred in Kenya, would constitute an offence against a provision of any law in Kenya;

"person" means any natural or legal person;

"proceeds of crime" means any property or economic advantage derived or realized, directly or indirectly, as a result of or in connection with an offence irrespective of the identity of the offender and includes, on a proportional basis, property into which any property derived or realized directly from the offence was later successively converted, transformed or intermingled, as well as income, capital or other economic gains or benefits derived or realized from such property from the time the offence was committed;

"property" means all monetary instruments and all other real or personal property of every description, including things in action or other incorporeal or heritable property, whether situated in Kenya or elsewhere, whether tangible or intangible, and includes an interest in any such property and any such legal documents or instruments evidencing title to or interest in such property;

"realizable property" means-

- (a) property laundered;
- (b) proceeds from or instrumentalities used in, or intended to be used in money laundering or predicate offences;

(c) property that is the proceeds of, or used, or intended or allocated for use in, the financing of any offence; and

(d) property of corresponding value;

"regulations" means regulations made under this Act;

"reporting institution" means a financial institution and designated non-financial business and profession;

"restraint order" means an order made under section 68;

"Self-regulatory body" means the Law Society of Kenya;

"supervisory body" means a functionary or institution specified in the First Schedule or such other functionary or institution as may be prescribed by the Cabinet Secretary;

"tainted property" in relation to an offence means —

(a) any property used in, or in connection with, the commission of the offence;

(b) any proceeds of the offence; or

(c) any property in Kenya which is the proceeds of a foreign offence in respect of which an order may be registered, and when used without reference to a particular offence means tainted property in relation to an arrestable offence.

Section 11 of Cap. 59A which it is intended to amend—

11. Failure to comply with the provisions of this Act

(1) A reporting institution that fails to comply with any of the requirements of sections 44, 45 and 46, or of any regulations, commits an offence.

Section 12 of Cap. 59A which it is intended to amend—

12. Conveyance of monetary instruments to or from Kenya

(6) An authorised officer, other than Agency Director, shall immediately but not later than five days surrender monetary instruments seized under subsection (4) to the Agency Director in such manner as the Agency Director may direct.

Section 24B of Cap. 59A which it is intended to amend—

24B. Powers of the Centre to impose civil penalties for non-compliance

(1) Without derogating from any criminal penalty or other sanction that may be imposed by this Act, where a person or a reporting institution

is in breach of, or fails to comply with any instruction, direction or rules issued by the Centre under this Act—

Section 36C of Cap. 59A which it is intended to amend—

36C. Powers of supervisory bodies

(1) Without prejudice to the provisions of section 36A, a supervisory body shall have powers—

(f) to undertake consolidated supervision for anti-money laundering, combating terrorism countering financing and countering proliferation financing purposes of a reporting institution and its group

Section 36D of Cap. 59A which it is intended to amend—

36D. Risk-based approach

(1) The Centre and supervisory bodies shall, in fulfilling their obligation to effectively monitor reporting institutions, use a risk-based approach.

(2) The Centre and supervisory bodies shall, in applying a risk-based approach to supervision, ensure that they—

(c) base the frequency and intensity of on-site and off-site supervision on—

- (i) the money laundering, terrorist financing proliferation and financing risks, internal and the policies controls and procedures associated with the business activities of a reporting institution, as identified by the Centre or supervisory body's assessment of its risk profile;
- (ii) the risks laundering, of money terrorist financing and proliferation financing in the country as identified within any information that is made available to the Centre or supervisory body; and
- (iii) the characteristics of the reporting institution, in particular the diversity and number of such institutions and the degree of discretion allowed to a reporting institution under the risk-based approach.

(3) The Centre or supervisory body shall review the assessment of the money laundering, terrorist financing and proliferation financing risk profile of a reporting institution or group, including the risks of noncompliance periodically, and when there are major events or developments in the management and operations of the reporting institution or group.

Section 48 of Cap. 59A which it is intended to amend—

48. Application of reporting obligations

The obligations under this Part shall apply to—

- (a) accountants, advocates, notaries and other independent legal professionals who are sole practitioners, partners or employees within professional firms when preparing or carrying out transactions for their clients in the following situations—
 - (i) buying and selling of real estate;
 - (ii) managing of client money, securities or other assets;
 - (iii) management of bank, savings or securities accounts;
 - (iv) organisation of contributions for the creation, operation or management of companies; or
 - (v) creation, operation or management of buying and selling of business entities or legal arrangements; or
- (b) a trust or company service provider not otherwise covered elsewhere in this Act, which as a business, provides any of the following services to third parties—
 - (i) acting as a formation agent of legal persons;
 - (ii) acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - (iv) acting as, or arranging for another person to act as, trustee of an express trust;
 - (v) acting as or arranging for another person to act as, a nominee shareholder for another person.

Section 53 of Cap. 59A which it is intended to amend—

53. The Agency and its Director

(1) There is established a body to be known as Assets Recovery Agency, which shall be a body corporate with perpetual succession and a common seal, and shall in its corporate name, be capable of—

- (a) suing and being sued;

- (b) holding and alienating movable and immovable property;
- (c) borrowing and lending money;
- (d) doing and performing all such other acts or things as may be lawfully done by a body corporate.

(2) The Attorney-General shall upon recommendation by the Advisory Board appoint a fit, competent and proper person to be the Director of the Agency (hereinafter referred to as the "Agency Director").

(2A) The Agency Director shall hold office for a term of four years and shall be eligible for re-appointment for one further term of four years.

(3) For a person to be appointed as the Agency Director, that person shall—

- (a) hold a degree in law, finance, accounting or any other relevant degree from a university recognised in Kenya;
- (b) have at least fifteen years work experience, of which at least five shall be in senior management;
- (c) meet such other requirements that may be specified by the Advisory Board.

(4) The Agency Director may, with the approval of the Attorney-General, obtain such number of staff on secondment and on terms and conditions of service as may be approved by the Attorney-General, and may make such arrangements for the provision of services, as he considers appropriate for or in connection with the exercise of his functions.

(5) Anything which the Agency Director is authorised or required to do may be done by—

- (a) a member of staff of the Agency, or
- (b) a person providing services under arrangements made by the Agency Director, if authorised by the Agency Director (generally or specifically) for that purpose.

Section 53A of Cap. 59A which it is intended to amend—

53A. Staff of the Agency

(3) In determining the terms and conditions of service for the Agency Director and staff, the Attorney-General shall be guided by the following principles—

(4) The Agency shall, with the approval of the Cabinet Secretary for finance, establish a suitable social security scheme for the Agency Director and staff of the Agency.

(5) For the purposes of their functions under the Act, the Agency Director, certified forensic and financial investigators, shall have all the powers, privileges and immunities of a police officer in addition to any other powers they may have under the Act.

Section 54C of Cap. 59A which it is intended to amend—

54C. Estimates of expenditure

(3) The annual estimates shall make provisions for all the estimated expenditure of the Agency for the financial year concerned and in particular, shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the Agency Director and other staff of the Agency;

Section 54F of Cap. 59A which it is intended to amend—

54F. The common seal of the Agency

(1) The common seal of the Agency shall be such device as may be determined by the Agency Director.

(2) The common seal of the Agency shall be kept in such custody as the Agency Director shall direct and shall not be used except on the order of the Agency Director.

Section 55A of Cap. 59A which it is intended to amend—

55A. Asset Recovery Advisory Board

(1) There is established an advisory board to be known as the Asset Recovery Advisory Board which shall consist of—

- (k) the Agency Director, who shall be an ex-officio member of the Advisory Board.

Section 55G of Cap. 59A which it is intended to amend—

55G. Cabinet Secretary to make Regulations

(1) The Cabinet Secretary shall, in Regulations, prescribe the manner of discharging the functions of the Advisory Board including the procedure at its meetings.

(2) Notwithstanding the generality of subsection (1), the Advisory Board shall regulate its own procedure.

Section 61 of Cap. 59A which it is intended to amend—

61. Confiscation orders

(1) Whenever a defendant is convicted of an offence, the court convicting the defendant shall, on the application of the Attorney-General,

the Agency Director or of its own motion, inquire into any benefit which the defendant may have derived from—

(5) A court before which proceedings under this section are pending, may, in considering an application under subsection (1)—

- (i) refer to the evidence and proceedings at the trial;
- (ii) hear further oral evidence or take documentary evidence as the court may deem fit;
- (iii) direct the Agency Director to tender to the court the affidavit referred to in section 64(1); and

Section 64 of Cap. 59A which it is intended to amend—

64. Statements relating to proceeds of crime

(1) The Agency Director may or, if so directed by the court, shall tender to the court an affidavit by the defendant or any other person in connection with any matter which is being inquired into by the court under section 61(1), or which relates to the determination of the value of a defendant's proceeds of crime.

(6) A copy of the affidavit or affirmation tendered under subsection (5) shall be served on the Agency Director.

(7) The Agency Director may admit the correctness of any allegation contained in an affidavit or affirmation tendered under subsection (5).

(8) In so far as the Agency Director admits the correctness of any allegation contained in an affidavit or affirmation tendered under subsection (5), that allegation shall be considered to be conclusive proof of the matter to which it relates.

Section 67 of Cap. 59A which it is intended to amend—

67. Procedure where person absconds or dies

(1) If a court is satisfied—

(a) that—

- (i) a person had been charged with an offence; or
- (ii) a person had been convicted of any offence; or
- (iii) a restraint order had been made against a person; or
- (iv) there is sufficient evidence for putting a person on trial for an offence; and

- (b) a warrant for that person's arrest had been issued and that the attendance of that person in court could not be secured after all reasonable steps were taken to execute that warrant;
- (c) the proceedings against that person cannot be resumed within a period of six months due to his continued absence; and
- (d) there are reasonable grounds to believe that a confiscation order would have been made against that person were it not for his continued absence,

the court may, on an application by the Agency Director, inquire into any benefit he may have derived from that offence.

(2) Whenever a defendant who has been convicted of an offence dies before a confiscation order is made, the court may, on an application by the Agency Director, inquire into any benefit he may have derived from that offence if the court is satisfied that there are reasonable grounds to believe that a confiscation order would have been made against him were it not for his death.

Section 68 of Cap. 59A which it is intended to amend—

68. Restraint orders

(1) The Agency Director may apply to a court *ex parte* for an order prohibiting any person, subject to such conditions and exceptions as may be specified in the order, from dealing in any manner with any property to which the order relates.

Section 71 of Cap. 59A which it is intended to amend—

71. Seizure of property subject to restraint order

(1) In order to prevent any realizable property from being disposed of or removed contrary to a restraint order, a police officer may seize that property if he has reasonable grounds to believe that the property will be so disposed of or removed.

Section 75 of Cap. 59A which it is intended to amend—

75. Realization of property

(2) A court may, on the application of the Agency Director—

Section 82 of Cap. 59A which it is intended to amend—

82. Preservation orders

(1) The Agency Director may, by way of an *ex parte* application apply to the court for an order prohibiting any person, subject to such conditions and exceptions as may be specified in the order, from dealing in any manner with any property.

Section 83 of Cap. 59A which it is intended to amend—

83. Notice of preservation orders

(1) If a court makes a preservation order, the Agency Director shall, within twenty-one days after the making of the order, give notice of the order to all persons known to the Agency Director to have an interest in property which is subject to the order; and publish a notice of the order in the Gazette.

(4) A notice under subsection (3) shall be served upon the Agency Director, in the case of—

Section 85 of Cap. 59A which it is intended to amend—

85. Seizure of property subject to preservation orders

(1) In order to prevent property subject to a preservation order from being disposed of or removed contrary to that order, any police officer may seize any of that property if he has reasonable grounds to believe that the property will be so disposed of or removed.

Section 86 of Cap. 59A which it is intended to amend—

86. Appointment of manager in respect of property subject to preservation orders

(1) Where a court has made a preservation order, the court shall, if it deems it appropriate or at the request of the Agency Director, at the time of the making of the order or at a later time—

- (a) appoint a manager to do, subject to the directions of that court or the Agency Director, any one or more of the following on behalf of the person against whom the preservation order has been made, namely—

Section 90 of Cap. 59A which it is intended to amend—

90. Application for forfeiture order

(1) If a preservation order is in force, the Agency Director may apply to the High Court for an order forfeiting to the Government all or any of the property that is subject to the preservation order.

(2) The Agency Director shall give fourteen days notice of an application under subsection (1) to every person who served notice in terms of section 83(3).

Section 93 of Cap. 59A which it is intended to amend—

93. Protection of third parties

(4) A person who makes an application under subsection (1) or (2) shall give not less than fourteen days written notice of the making of the

application to the Agency Director who shall be a party to any proceedings in the application.

(5) An applicant or the Agency Director may in accordance with the High Court rules, appeal to the Court of Appeal against an order made under subsection (1).

Section 94 of Cap. 59A which it is intended to amend—

94. Exclusion of interests in property

(4) If an applicant for an order under subsection (1) adduces evidence to show that he did not know or did not have reasonable grounds to suspect that the property in which the interest is held is tainted property, the Agency Director may submit a return of the service on the applicant of a notice issued under section 90(3) in rebuttal of that evidence in respect of the period since the date of such service.

(5) Where the Agency Director submits a return of the service on the applicant under subsection (4), the applicant shall, in addition to the facts referred to in subsections (2)(a) and (b), also prove on a balance of probabilities that, since such service, he has taken all reasonable steps to prevent the further use of the property concerned in the commission of an offence.

Section 95 of Cap. 59A which it is intended to amend—

95. Forfeiture order by default

(2) The High Court may, before making an order in terms of subsection (1), call upon the Agency Director to adduce such further evidence, either in writing or orally, in support of his application as the High Court may consider necessary.

Section 99 of Cap. 59A which it is intended to amend—

99. Fulfilment of forfeiture order

(1) The manager shall, subject to any order for the exclusion of interests in forfeited property under section 94(2)(a) or 96(3) and in accordance with the directions of the Agency Director—

Section 103 of Cap. 59A which it is intended to amend—

103. Production orders

(1) Where a person has been charged with or convicted of an offence, and a police officer has reasonable grounds for suspecting that any person has possession or control of—

- (a) a document relevant to identifying, locating or quantifying property of the person, or to identifying or locating a document necessary for the transfer of property of such person; or
- (b) a document relevant to identifying, locating or quantifying tainted property in relation to the offence, or to identifying or locating a document necessary for the transfer of tainted property in relation to the offence, the police officer may make an ex parte application with a supporting affidavit to a court for an order against the person suspected of having possession or control of a document of the kind referred to.

(2) A police officer to whom the documents are produced may—

- (a) inspect the documents;
- (b) make copies of the documents; or
- (c) retain the documents for as long as is reasonably necessary for the purposes of this Act.

(3) Where a police officer retains documents produced to him, he shall make a copy of the documents available to the person who produced them.

Section 105 of Cap. 59A which it is intended to amend—

105. Failure to comply with a production order

(1) Where a person is required by a production order to produce a document to a police officer, the person commits an offence under this section if he—

Section 107 of Cap. 59A which it is intended to amend—

107. Search warrant for location of documents relevant to locating property

(1) Where—

- (a) a person has been charged or convicted of an offence; or
- (b) a police officer has reasonable grounds for suspecting that there is or may be, within the next seventy-two hours, upon any land or in any premises, a document of the type described in section 103(1) in relation to the offence,

the police officer may make an application supported by an affidavit to a court of competent jurisdiction for a search warrant in respect of that land or those premises.

(2) Where an application is made under subsection (1) for a warrant to search land or premises, the court may, subject to subsection (4) issue a warrant authorizing a police officer, whether or not named in the warrant, with such assistance and by such force as is necessary and reasonable—

- (a) to enter upon the land or into any premises and to search the land or premises for property of that kind; and
- (b) to seize property found in the course of the search that the police officer believes on reasonable grounds to be property of that kind.

(3) A court shall not issue a warrant under subsection (2) unless it is satisfied that—

- (a) a production order has been given in respect of the document and has not been complied with; or
- (b) a production order in respect of the document would be unlikely to be effective; or
- (c) the investigation for the purposes of which the search warrant is being sought might be seriously prejudiced if the police officer does not gain immediate access to the document without any notice to any person; or

(5) If during the course of searching under a warrant issued under this section, a police officer finds—

- (a) a document of the type described in section 103(1) that the police officer believes on reasonable grounds to relate to the relevant offence, or to another offence; or
- (b) anything the police officer believes on reasonable grounds will afford evidence as to the commission of an offence,

the police officer may seize that property or thing and the warrant shall be deemed to authorise such seizure.

Section 124 of Cap. 59A which it is intended to amend—

124. Hearings of court to be open to public

(3) An application for proceedings to be held behind closed doors may be brought by the Attorney-General or the manager referred to in section 68 and any other person referred to in subsection (2), and such application shall be heard behind closed doors.

Section 134 of Cap. 59A which it is intended to amend—

134. Regulations

(1) The Cabinet Secretary shall make Regulations—

- (a) with regard to the nature of the information contemplated in section 44 and the manner in which it is to be reported;
- (b) with regard to the designation of persons for purposes of section 47;
- (c) in consultation with the Chief Justice, prescribing from time to time the maximum allowable costs for legal services in connection with an application for a preservation of property order or forfeiture order or the defending of a criminal charge which may be met out of property that is subject to a preservation of property order;
- (d) providing for high risk customers or clients; and
- (e) providing for any matter which he may consider necessary or expedient to prescribe or to regulate in order to achieve the objects of this Act.

(2) Notwithstanding the provisions of subsection (1), the Cabinet Secretary may make regulations generally for carrying out the purposes and provisions of this Act, including the following—

- (a) regulations that require reporting institution to exercise due diligence and take reasonable measures to satisfy themselves as to the true identity of any person seeking to enter into a business relationship with them, or seeking to carry out a transaction or series of transactions with them, by requiring the person to produce an official record reasonably capable of establishing the true identity of the person;
- (b) regulations that require reporting institutions to establish and maintain records of transactions;
- (c) regulations that require reporting institutions to report transactions or activities that they have reasonable grounds to believe are suspicious or unusual as defined by the regulations and this Act; or
- (d) regulations that require reporting institutions to establish and maintain internal reporting procedures to make employees aware of domestic laws relating to money-laundering, and the procedures and related policies established and maintained by them pursuant to this Act, to provide employees with appropriate training in the recognition and handling of suspicious activities that may be indicative of money-laundering, to provide for an independent auditing of monitoring procedures, and to maintain an adequate anti-money laundering compliance programme.

First Schedule to Cap. 59A which it is intended to amend—

The following institutions are the supervisory bodies referred to in section 2—

- (a) Central Bank of Kenya;
- (b) Insurance Regulatory Authority;
- (c) Betting and Licensing Control Board;
- (d) Capital Markets Authority;
- (e) Institute of Certified Public Accountants of Kenya;
- (f) Estate Agents Registration Board;
- (g) Non-Governmental Organizations Co-ordination Board;
- (h) Retirement Benefits Authority;
- (i) Law Society of Kenya;
- (j) Sacco Societies Regulatory Authority.

Section 2 of Cap. 59B which it is intended to amend—

2. Interpretation

(1) In this Act, unless the context otherwise requires—

"aircraft" has the meaning assigned to it under the Civil Aviation Act (Cap. 394)

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to internal security;

"Committee" means the Counter Financing of Terrorism Inter-Ministerial Committee established under section 40D(1) of this Act;

"communication" means a information received or transmitted through the postal service or through a telecommunication system within the meaning of the Kenya Information and Communications Act (Cap. 411A);

"communications service provider" means a person who is licensed under the Kenya Information and Communications Act to provide postal or telecommunication services;

"competent authority" in relation to a foreign State, means the Attorney-General or the equivalent officer of that State;

"entity" means a person, group of persons, trust, partnership, fund or an unincorporated association or organization;

"financial institution" means any person or entity, which conducts as a business, one or more of the following activities or operations—

- (a) accepting deposits and other repayable funds from the public;
- (b) lending, including consumer credit, mortgage credit, factoring, with or without recourse, and financing of commercial transactions;
- (c) financial leasing;
- (d) transferring of funds or value, by any means, including both formal and informal channels;
- (e) issuing and managing means of payment (such as credit and debit cards, cheques, travellers' cheques, money orders and bankers' drafts and electronic money);
- (f) financial guarantees and commitments;
- (g) trading in—
 - (i) money market instruments including cheques, bills, certificates of deposit and derivatives;
 - (ii) foreign exchange;
 - (iii) exchange, interest rate and index funds;
 - (iv) transferable securities; or
 - (v) commodity futures trading;
- (h) participation in securities issues and the provision of financial services related to such issues;
- (i) individual and collective portfolio management;
- (j) safekeeping and administration of cash or liquid securities on behalf of other persons;
- (k) otherwise investing, administering or managing funds or money on behalf of other persons;
- (l) underwriting and placement of life insurance and other investment related insurance;
- (m) money and currency changing;

"Financial Reporting Centre" means the Financial Reporting Centre established under section 21 of the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A);

"funds" means assets of every kind, whether corporeal or incorporeal, tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets;

"Inspector-General" means the Inspector-General of the National Police Service appointed under Article 245 of the Constitution;

"master" in relation to a vessel, means the owner or person other than a harbour master or pilot having for the time being command or charge of the vessel;

"operator", in relation to an aircraft, has the meaning assigned to it under the Civil Aviation Act (Cap. 394);

"proliferation acts" means manufacturing, acquiring, possessing, developing, exporting, trans-shipping, brokering, transporting, transferring, stockpiling, supplying, selling or using nuclear, ballistic, chemical, radiological or biological weapons or any other weapon capable of causing mass destruction, and their means of delivery and related materials including technology, goods, software, services or expertise in contravention of this Act or any international obligations derived from relevant United Nations Security Council Resolutions;

"property" means assets of every kind, whether corporeal or incorporeal, moveable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in such assets and includes funds;

"reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A);

"specified entity" means an entity in respect of which an order under section 3 has been made;

"terrorist act" means an act or threat of action—

(a) which—

- (i) involves the use of violence against a person;
- (ii) endangers the life of a person, other than the person committing the action;
- (iii) creates a serious risk to the health or safety of the public or a section of the public;
- (iv) results in serious damage to property;
- (v) involves the use of firearms or explosives;

- (vi) involves the release of any dangerous, hazardous, toxic or radioactive substance or microbial or other biological agent or toxin into the environment;
- (vii) interferes with an electronic system resulting in the disruption of the provision of communication, financial, transport or other essential services;
- (viii) interferes or disrupts the provision of essential or emergency services;
- (ix) prejudices national security or public safety; and (b) which is carried out with the aim of—
 - (i) intimidating or causing fear amongst members of the public or a section of the public; or
 - (ii) intimidating or compelling the Government or international organization to do, or refrain from any act; or
 - (iii) destabilizing the religious, political, Constitutional, economic or social institutions of a country, or an international organization:

Provided that an act which disrupts any services and is committed in pursuance of a protest, demonstration or stoppage of work shall be deemed not to be a terrorist act within the meaning of this definition so long as the act is not intended to result in any harm referred to in paragraph (a)(i) to (iv);

"terrorist group" means—(a) an entity that has as one of its activities and purposes, the committing of, or the facilitation of the commission of a terrorist act; or (b) a specified entity;

"terrorist property" means—(a) proceeds from the commission of a terrorist act, money or other property which has been, is being, or is intended to be used to commit a terrorist act; (b) money or other property which has been, is being, or is intended to be used by a terrorist group; or (c) any property belonging to a specified entity;

"vessel" means any thing made or adapted for the conveyance by water of people or property;

"weapon" includes a firearm within the meaning assigned to it under the Firearms Act (Cap. 114), explosive, chemical, biological, nuclear or other lethal device.

Section 5A of Cap. 59B which it is intended to amend—

5A. Financing of travel for terrorism purposes

A person who finances the travel of an individual to a State other than that individual's State of residence or nationality for the purpose of

the perpetration, planning, or preparation of, or participation in, a terrorist act or the providing or receiving of terrorist training commits an offence.

Section 29 of Cap. 59B which it is intended to amend—

29. Collection of information

A person who is a member of a terrorist group or who, in committing or in instigating, preparing or facilitating the commission of a terrorist act, holds, collects, generates or transmits information for the use in the commission of a terrorist act commits an offence, and is liable, on conviction, to imprisonment for a term not exceeding thirty years.

Section 30 of Cap. 59B which it is intended to amend—

30. Possession of an article connected with an offence under this Act

A person who knowingly possesses an article or any information held on behalf of a person for the use in instigating the commission of, preparing to commit or committing a terrorist act commits an offence, and is liable, on conviction, to imprisonment for a term not exceeding twenty years.

Section 30H of Cap. 59B which it is intended to amend—

30H. Penalties for legal persons

(1) A legal person who contravenes the provisions of sections 4, 10, 11, 12, 12B, 12C, 12D, 13, 14, 14A, 21, 24, 27, 28, 29 or 30 D commits an offence and is liable, on conviction, to a fine not exceeding thirty million shillings.\

Section 36A of Cap. 59B which it is intended to amend—

36A. Interception of communication by the National Security Organs

(1) The National Security Organs may intercept communication for the purposes of detecting, deterring and disrupting terrorism in accordance with procedures to be prescribed by the Cabinet Secretary.

(2) The Cabinet Secretary shall make regulations to give effect to subsection (1), and such regulations shall only take effect upon approval by the National Assembly.

(3) The right to privacy under Article 31 of the Constitution shall be limited under this section for the purpose of intercepting communication directly relevant in the detecting, deterring and disrupting terrorism.

Section 40E of Cap. 59B which it is intended to amend—

40E. Functions of the Committee

(2) The Committee may, in carrying out its functions, co-ordinate with the relevant competent party and any other person for the purposes of —

- (a) identifying persons or entities for the purpose of designation;
- (b) examining and giving effect, upon a request by a foreign country, to an action initiated under the freezing mechanism of that foreign country, which is consistent with the public interest of Kenya;
- (c) considering requests for the delisting of a designated entity under this Act and the regulations made thereunder; and
- (d) the performance of its functions under this Act.

Section 42A of Cap. 59B which it is intended to amend—

42A. Role of the Financial Reporting Centre and supervisory bodies

(1) The Financial Reporting Centre and supervisory bodies shall have the power to supervise and enforce the application of preventative measures to combat the financing of terrorism and combat the financing of proliferation acts by reporting institutions.

(2) For the purposes of this section —

- (a) “preventative measures” include measures under Part IV of the Proceeds of Crime and Anti-Money Laundering Act, 2009; and
- (b) “Supervisory body” has the meaning assigned under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009.

Section 50 of Cap. 59B which it is intended to amend—

50. Power to make rules

(4) Regulations made under this section shall be laid before the National Assembly.

Section 2 of Cap. 131 which it is intended to amend—

2. Interpretation

In this Act, unless the context otherwise requires —

"authorized race meeting" means a race meeting in respect of which a permit authorizing bookmaking to take place thereat has been issued under section 23;

"betting premises" means premises to which the public has or may have access and which are kept or used (whether on one occasion or more than one) for the purpose of—

- (a) bets being made therein between persons resorting to the premises and the owner, occupier or keeper thereof, or any person using the premises, or any person procured or employed by or acting for or on behalf of the owner, occupier, keeper or person using the premises, or of any person having the care or management or in any manner conducting the business thereof; or
- (b) any money or valuable thing being received by or on behalf of the owner, occupier, keeper or person aforesaid as or for the consideration for any assurance, undertaking, promise or agreement, express or implied, to pay or give, or for securing the paying or giving by some other person of, any money or valuable thing on any horse race, or other race, fight, game, sport, lottery or exercise, or any other event or contingency;

"betting transaction" includes the collection or payment of winnings on a bet and any transaction in which one or more of the parties is acting as a bookmaker;

"bookmaker" means a person who, whether on his own account or as servant or agent to another person, carries on, whether occasionally or regularly, the business of receiving or negotiating bets, or who in any manner holds himself out, or permits himself to be held out in any manner, as a person who receives or negotiates bets, so however that a person shall not be deemed to be a bookmaker by reason only of the fact—

- (a) that he carries on, or is employed in operating, a totalisator in respect of which a licence has been issued under section 18; or
- (b) that he carries on, or is employed in a business that is wholly concerned with, a pool betting scheme in respect of which a licence has been issued under section 22;

"Collector" means the Commissioner-General appointed under the Kenya Revenue Authority Act (Cap. 469);

"coupon", in relation to a pool betting scheme or proposed pool betting scheme, includes a document connected with, or designed to assist in the making of, a bet by way of pool betting;

"game of chance" includes a game of chance and skill combined and a pretended game of chance or of chance and skill combined, but does not include an athletic game or sport;

"gaming" means the playing of a game of chance for winnings in money or money's worth;

"gaming machine" means a machine for playing a game of chance, being a game which requires no action by a player other than the actuation or manipulation of the machine;

"gaming premises" means premises which are kept or used (whether on one occasion or more than one) for gaming, and to which the public has or may have access for the playing therein of a game of chance, whether the game of chance be an unlawful game or not;

"gaming revenue" means gross turnover less the amount paid out to customers as winnings;

"horse race" includes a pony race;

"instruments of gaming" means cards, dice, counters, coins, tickets, gaming tables, boards, boxes, or other things devised, or birds and animals used, for the purpose of gaming;

"licensed betting premises" means premises duly licensed in terms of this Act as premises wherein bets may be made and settled;

"licensed gaming premises" means premises licensed under this Act as premises to which the public may resort for the purpose of gaming;

"licensee" means a person issued with a licence under any of sections 16, 18, 22 and 46;

"lottery" includes a sweepstake, a raffle and any scheme or device for the sale, gift, disposal or distribution of any property depending upon or to be determined by lot or chance, whether by the throwing or casting of dice, or by the withdrawing of tickets, cards, lots, numbers or figures, or by means of a wheel, or otherwise howsoever;

"money" includes a cheque, bank note, postal order or money order;

"newspaper" includes a journal, magazine or other periodical publication;

"permit-holder" means the holder of a permit issued under any sections 23, 36, 39, 54 and 58;

"pool betting" means the making of bets (other than bets made by means of totalisator), whether the bets are made on the system known as a fixed odds betting or otherwise, by a number of persons on terms that the winnings of such of those persons as are winners shall be, or be a share of, or be determined by reference to, the stake money paid or agreed to be paid by those persons;

"pool betting scheme" means a scheme involving the receiving or negotiating of bets made by way of pool betting;

"premises" includes any place, and in sections 14, 35, 45, 50, 53 and 58 also includes any vessel;

"racecourse" means a place used for the purpose of holding a race meeting;

"race day" means a day on which a race meeting is held;

"race meeting" means a gathering of the public or of the members of an association of persons to watch horse races or other races;

"tax" means any charges, fees, levies or impositions imposed under this Act;

"the Board" means the Betting Control and Licensing Board established by section 3;

"the Principal Secretary" means the Principal Secretary of the Ministry for the time being responsible for Betting, Lotteries and Gaming;

"ticket", in relation to any lottery or proposed lottery, includes any document evidencing the claim of a person to participate in the chances of the lottery;

"to bet" means to wager or stake any money or valuable thing by or on behalf of any person or, expressly or impliedly to undertake, promise or agree to wager or stake by or on behalf of any person, any money or valuable thing on a horse race, or other race, fight, game, sport, lottery or exercise or any other event or contingency;

"totalisator" means the instrument, machine or contrivance commonly known as a totalisator, or any other instrument, machine or contrivance of a similar nature, or a scheme for enabling any number of persons to make bets on any event or contingency whatsoever with one another or principles of a similar nature;

"turf club" means a club or association or other body of persons (whether incorporated or unincorporated) established for the purpose of promoting, conducting and controlling the sport of horse racing;

"unlawful game" means a game of chance the chances of which are not alike favourable to all the players, including the banker or other person or persons by whom the game is managed or against whom the other players stake, play or bet;

"winnings" includes winnings of any kind and a reference to the amount or to the payment of winnings shall be construed accordingly.

Section 50 of Cap. 197 which it is intended to amend—

2. Interpretation

In this Act, unless the context otherwise requires—

“actuary” means a person who is a Fellow of the Institute of Actuaries in England, or the Faculty of Actuaries in Scotland, or the Canadian Institute of Actuaries, or the Society of Actuaries of the United States of America or the Institute of Actuaries of Japan or the Institute of Actuaries of Australia or a person holding such equivalent qualification as the Board may, by notice in the Gazette, prescribe;

“administrator” means a person appointed by trustees to administer a scheme in accordance with such terms and conditions of service as may be specified in the instrument of appointment;

“authority” means the Retirement Benefits Authority established by section 3;

“Board” means the Board of Directors of the Authority constituted under section 6;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to Finance;

“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed under section 11;

“corporate trustee” means a limited liability company incorporated under the Companies Act (Cap. 486), which is, for the time being, empowered under any written law, its charter, memorandum of association, deed of settlement or other instrument constituting it or defining its powers to mainly undertake trusts, and includes a trust corporation;

“custodian” means a company whose business includes taking responsibility for the safe custody of the funds, securities, financial instruments and documents of title of the assets of scheme funds;

“financial year”—

(a) in relation to the Authority, has the meaning assigned to it in section 19;

(b) in relation to a scheme, means such accounting period as may be prescribed in the scheme rules;

“Fund” means the Retirement Benefits Authority Fund established by section 17;

“Levy” means the Retirement Benefits Levy to be imposed under section 16;

“manager” means a company whose business includes—

- (i) undertaking, pursuant to a contract or other arrangement, the management of the funds and other assets of a scheme fund for purposes of investment;
- (ii) providing consultancy services on the investment of scheme funds; or
- (iii) reporting or disseminating information concerning the assets available for investment of scheme funds;

“member” means a member of a retirement benefits scheme and includes a person entitled to or receiving a benefit under a retirement benefits scheme;

“pooled fund” means a fund established by a limited liability company, other than an approved issuer, for purposes of pooling scheme funds for collective investment;

“post-retirement medical fund” means a fund established under this Act into which contributions are made and from which costs of medical benefits can be met in accordance with the medical fund rules;

“retirement benefits scheme” means any scheme or arrangement (other than a contract for life assurance) whether established by a written law for the time being in force or by any other instrument, under which persons are entitled to benefits in the form of payments or post-retirement medical cover determined by age, length of service, amount of earnings or otherwise and payable primarily upon retirement, or upon death, termination of service, or upon the occurrence of such other event as may be specified in such written law or other instrument;

“scheme” means a retirement benefits scheme;

“scheme fund” means the retirement benefits scheme fund to be established pursuant to the provisions of section 32;

“scheme rules” means the rules specifically governing the constitution and administration of a particular scheme;

“sponsor” means a person who establishes a scheme;

“statutory fund” has the meaning assigned to it in section 2 of the Insurance Act (Cap. 487);

“Tribunal” means the Appeals Tribunal established under section 48;

“trust corporation” means a company incorporated under the Companies Act (Cap. 486) having a subscribed capital of not less than ten million shillings and which is for the time being empowered (by or under any written law, its charter, memorandum of association, deed of settlement or other instrument constituting it or defining its powers) to undertake trusts:

Provided that such company does not, by any prospectus, circular, advertisements, or other documents issued by it or on its behalf, state or hold out that any liability attaches to the Public Trustee or to the Consolidated Fund in respect of any act or omission of the company when acting as an executor or administrator;

“trustee” means a trustee of a scheme fund and includes a trust corporation.

Section 4 of Cap. 306 which it is intended to amend—

4. Interpretation

In this Act, unless the context otherwise requires—

“application” includes—

- (a) an application for the grant, renewal, transfer, assignment or surrender of a mineral right; or
- (b) an application for the grant or renewal of a mineral dealer's licence or a diamond dealer's licence;

“arm's-length value” means the purchase price under an immediate sale transaction in an open market where the purchase price for the sale—

- (a) is not influenced by any special relationship or other arrangement between the parties to the transaction, other than the immediate sale itself; and
- (b) is not affected by any non-commercial or other considerations; and specifically excludes any barter, swap, exchange, or transfer price arrangements or any restricted transaction that is associated with special financial, commercial or other considerations;

“artisanal mining” means traditional and customary mining operations using traditional or customary ways and means;

“artisanal mining permit” means a permit issued under section 95;

“banker” includes a manager, cashier or any other officer acting in that capacity of a company engaged in the business of banking within Kenya and in compliance with the provisions of the Banking Act (Cap. 488);

"block or cadastral unit" means a pseudo-quadrilateral formed by two meridians of longitude and two parallels of latitude of the Cadastral Graticule spaced fifteen seconds apart;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for mining;

"community" means —

(a) a group of people living around an exploration and mining operations area; or

(b) a group of people who may be displaced from land intended for exploration and mining operations;

"Community Development Agreement" means an agreement entered into between a large-scale mining licence holder and a community;

"construction minerals" includes stones, gravel, sands, soils, clay, volcanic ash, volcanic cinder and any other minerals used for the construction of buildings, roads, dams, aerodromes and landscaping or similar works, and such other minerals as the Cabinet Secretary may from time to time declare to be construction minerals, by notice published in the Gazette;

"company" has the meaning assigned to it under the Companies Act (Cap. 486);

"Corporation" means the National Mining Corporation established in section 22;

"Council of County Governors" means the Council of County Governors established under section 19 of the Intergovernmental Relations Act (Cap. 265F);

"day" means a calendar day;

"diamond" includes a rough and uncut diamond;

"Director of Geological Survey" means the Director of Geological Survey appointed under section 18;

"Director of Mines" mean the Director of Mines appointed under section 18;

"environment" has the meaning assigned to it under the Environmental Management and Coordination Act (Cap. 387);

"environmental impact assessment licence" means an environmental impact assessment licence granted under the Environmental Management and Coordination Act (Cap. 387);

"excavation" means a trench, pit, shaft, dredging, brine pumping or other work which is related to operations under a mineral right;

"financial difficulty" in respect of a company or other body corporate, means that the company or body corporate—

- (a) is in liquidation;
- (b) is the subject of a subsisting court order for its winding up or dissolution; or
- (c) has made a composition or arrangement with its creditors which remains in effect;

"first-come, first-served" means the policy of considering and approving applications based on the order of receiving the applications;

"geologist" means a person who is registered as geologist in accordance with the Geologists' Registration Act (Cap. 535);

"geology" means the scientific and research aspects of the solid earth and its processes;

"geological report" means a report made by a geologist;

"gross value" means the arm's-length value of minerals or mineral products at the point of sale within Kenya, without any discounts, commissions or deductions;

"groundwater" has the meaning assigned to it under the Water Act (Cap. 372);

"holder", in respect of a mineral right, a licence or permit under this Act, means—

- (a) a person to whom a mineral right is granted; or
- (b) the person to whom a mineral right is transferred or assigned;

"inspector of mines" means a public officer who has been appointed in accordance with section 196;

"land" has the meaning assigned to it in Article 260 of the Constitution;

"large scale operation" means a prospecting or mining operation that is a large scale operation in accordance with this Act;

"licence area" means the area or areas of land covered by a prospecting licence, a retention licence or a mining licence under this Act;

"liquidator" has the meaning assigned to it under the Companies Act (Cap. 486);

"maritime zones" has the meaning assigned to it under the Maritime Zones Act (Cap. 371);

"member" means a member of the Board appointed under section 25;

"mine" —

- (a) when used as a noun, includes an excavation or system of excavations made for the purpose of, or in connection with, the extraction of minerals or mineral products, and includes an open-cast pit, quarry and any area where a mineral is won by dredging, brine pumping, evaporation or other means; and
- (b) when used as a verb, means the carrying out of a mining operation and includes tailing;

"mines support" means —

- (a) contract mining services which include top soil and waste removal, drilling and blasting, excavating and haulage of ore to plant on turnkey basis;
- (b) assay laboratory services;
- (c) drilling and blasting services;
- (d) mineral exploration services for a holder of a mineral right;
- (e) contract mining services for small scale and artisanal mining, which include mining and processing of ore, reclamation, re-vegetation and management of mining operations;
- (f) any other services specifically and exclusively related to mining, which the Cabinet Secretary considers necessary for the effective and sustainable development of the mining industry;

"mineral dealer" means any entity or person licenced to carry out mineral dealings;

"mineral dealings" means —

- (a) buying minerals;
- (b) selling minerals;
- (c) bartering minerals;
- (d) depositing or receiving minerals as a pledge or security; or
- (e) cutting, polishing, processing, refining and treating minerals;

"mineral dealer's permit" means a permit issued in accordance with section 164;

"mineral deposit" means a mass of naturally occurring minerals of economic value;

"mine waste and tailings" means the residue of mining operations that includes gravel, sand, slime, or other substances that are discarded in the course of mining operations;

"mineral" means a geological substance whether in solid, liquid or gaseous form occurring naturally in or on the earth, in or under water, in mine waste or tailing and includes the minerals specified in the First Schedule but does not include petroleum, hydrocarbon gases or groundwater;

"mineral agreement" means mineral agreement entered into in accordance with section 117;

"mineral product" for the purposes of royalty a product of mining operations, the product of extraction in mining operations of a metal or a precious mineral from a mineral and the product of beneficiation in mining operations of a mineral, but excluding waste and tailings;

"mineral right" means—

- (a) a prospecting licence;
- (b) a retention licence;
- (c) a mining licence;
- (d) a prospecting permit;
- (e) a mining permit; or
- (f) an artisanal permit;

"Mineral Rights Board" means the Board established under section 30;

"mining area" means an area or areas of land that are covered by a mining licence;

"mining bond" means an obligatory payment or cash deposit that may be required of a mineral right holder as guarantee for the due implementation of an approved mining programme;

"mining permit" means a permit granted in accordance with this Act, which authorises the holder to carry out small scale mining operations;

"mining licence" means a licence relating to large scale operations which authorises the holder to carry out mining operations;

"mining operations" means an operation carried out in connection with a mine—

- (a) to win a mineral from where it occurs;
- (b) to extract metal or precious mineral from a mineral so won, or to beneficiate a mineral so won; or
- (c) to dispose of a mine waste or tailings resulting from winning, extraction or benefaction;

"National Land Commission" means the National Land Commission established under Article 67 of the Constitution;

"permit area" means the area covered by a prospecting permit or a mining permit;

"petroleum" has the meaning assigned to it under the Petroleum (Exploration and Production) Act (Cap. 308);

"precious minerals" means the minerals specified in Part B of the First Schedule;

"precious stones" means the minerals specified in Part C of the First Schedule;

"Principal Secretary" means the Principal Secretary in the State Department for the time being responsible for mining;

"programme for mining operations" in respect of a mining licence means—

- (a) a programme of an intended mining operation prepared by the holder of the licence and approved by the Director of Mines on the grant or renewal of the licence; or
- (b) where the programme is amended pursuant to this Act, means the programme as so amended;

"programme for prospecting operations" means a programme of intended prospecting operations prepared by the applicant for a prospecting licence and approved by the Cabinet Secretary on the grant or renewal of the licence, and where the programme is amended pursuant to this Act means the programme as so amended;

"prospecting area" means the area or areas of land covered by a prospecting permit or licence;

"prospecting licence" means licence relating to large scale operations which authorises the holder to carry out prospecting operations;

"prospecting operations" means operations carried out offshore and on land to search for and define the extent of a mineral deposit and to determine its economic value;

"prospecting permit" means a permit relating to small scale operations which authorises its holder to carry out prospecting operations;

"public officer" has the meaning assigned to it under Article 260 of the Constitution;

"Public Service Commission" means the Public Service Commission established under Article 233(1) of the Constitution;

"radioactive mineral" means a mineral that contains by weight at least one-twentieth of one per cent (0.05 %) of uranium or thorium or any combination thereof, including, but not limited to, monazite sand and other ores containing thorium, carnotite, and pitchblende;

"reconnaissance" means the operations and works to carry out the non-intrusive search for mineral resources by geophysical surveys, geochemical surveys, photo geological surveys or other remote sensing techniques and surface geology in connection therewith, but excludes drilling and excavations;

"reconnaissance area" means an area that is subject to a reconnaissance licence;

"reconnaissance licence" means a licence granted under section 61 of this Act;

"register" means the register of mineral rights established under this Act;

"retention area" means the area or areas of land covered by a retention licence;

"retention licence" means a retention licence granted under this Act;

"small scale operation" means a prospecting or mining operation as described by the Second Schedule to this Act;

"strategic minerals" means minerals declared to be strategic minerals under this Act;

"transfer" includes to assign or trade;

"unwrought precious metal" means precious metal in any form whatsoever, which is not manufactured or made up into an article of industry or of the arts, and includes amalgam, slimes, slags, precious metal concentrates, pots, battery chips, sweepings from reduction works and scrapings and by-products of unrefined precious metal and precious metal which has been smelted into the form of bullion but does not include ore in situ; and

"water resource" has the meaning assigned to it under the Water Act (Cap. 372).

Section 2 of Cap. 490B which it is intended to amend—

2. Interpretation

In this Act, unless the context otherwise requires—

"associate" means—

(a) in relation to a company or other body corporate—

- (i) its non-operating holding company or its subsidiary;
- (ii) a subsidiary of its non-operating holding company;
- (iii) a holding company of its subsidiary;
- (iv) any person who controls the company or body corporate whether alone or with his associates or with other associates of it;

(b) in relation to an individual—

- (i) any member of his family;
- (ii) any company or other body corporate controlled directly or indirectly by him whether alone or with his associates; and

a person shall be deemed to be a member of a family if he is the parent, spouse, brother, sister, child, uncle, aunt, nephew, niece, stepfather, stepmother, stepchild and adopted child of the person concerned, and in case of an adopted child his adopter or adopters;

"Board" means the Board of the Authority constituted under section 6;

"board of directors" has the meaning assigned thereto in the Co-operative Societies Act (Cap. 490);

"Board of Trustees" means the board of trustees established by section 56 of this Act;

"by-laws" has the meaning assigned thereto in the Co-operative Societies Act (Cap. 490);

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to Sacco societies;

"Central Bank" means the Central Bank of Kenya established by the Central Bank of Kenya Act (Cap. 491);

"chief executive officer" means the chief executive officer of the Authority;

"Commissioner" has the meaning assigned thereto in the Co-operative Societies Act (Cap. 490);

"control" in relation to the term "associate" includes —

- (i) ability to influence whether directly or indirectly, the composition of the board of directors of a deposit-taking Sacco society; or
- (ii) holding, directly or indirectly, whether personally or through a holding company or subsidiaries thereof, or in any other way, an aggregate of twenty five per centum or more of the voting power of a company or body corporate, whether alone or with associates or of the body corporate.

"core capital" means the fully paid up members' shares, capital issued, disclosed reserves, retained earnings, grants and donations all of which are not meant to be expended unless on liquidation of the Sacco society;

"co-operative society" has the meaning assigned to it in the Co-operative Societies Act (Cap. 490);

"deposit" means a sum of money received or paid on terms under which it shall be repaid, with or without interest a return or premium, and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it;

"Deposit Guarantee Fund" means the Deposit Guarantee Fund established by section 55;

"deposit-taking business" means—

- (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;

"director" has the meaning assigned to it in the Co-operative Societies Act (Cap. 490);

"dormant account" means a savings or current account maintained by a Sacco society which is not operational, or has had no transaction by the depositor within the maximum period prescribed;

"General Fund" means the fund established by section 16;

"international financial reporting standards" means the international accounting standards set by the International Accounting Standards Board;

"land" includes freehold and leasehold land in Kenya and all buildings and permanent improvements and premises thereon;

"levy" means the levy imposed under section 15;

"licence" means a licence granted under section 25;

"member" has the meaning assigned to it in the Co-operative Societies Act (Cap. 490);

"non-deposit taking business" means Sacco business, other than desposit-taking business;

"officer" in relation to a Sacco society, means a director or any other person, by whatever name or title he may be called or described, who carries out or is empowered to carry out functions relating to the overall direction in Kenya of that deposit-taking Sacco society or takes part in the general management thereof in Kenya;

"place of business" means a Sacco society's head office, branch, or outlet, including a mobile unit, marketing office, automated teller machines or agency of a Sacco society and which is open to the public;

"Sacco business" means financial intermediation and any other activity by a Sacco society based on co-operative principles and in accordance with this 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-withdrawable 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;

"Sacco society" means a savings and credit co-operative society registered under the Co-operative Societies Act (Cap. 490);

"share capital" means members' equity in the form of issued and fully paid up shares of common stock;

"total capital" means the total sum of core capital and supplementary capital of a Sacco society;

"total deposit liabilities" means the total deposits in Kenya in any Sacco society which are repayable on demand or after a fixed period or after notice under agreed terms and conditions;

"Tribunal" has the meaning assigned to it in the Co-operative Societies Act (Cap. 490);

"trustees" means the trustees of the board of trustees of the Deposit Guarantee Fund constituted under section 57

Section 2 of Cap. 531 which it is intended to amend—

2. Interpretation

(1) In this Act, unless the context otherwise requires—

"accountancy" means practice in accounting, financial reporting, control systems, systems auditing, auditing, assurance, forensic accounting and auditing, finance, financial management, public finance management, taxation, financial risk management, management accounting and advisory services related thereto;

"accountant" is a person registered as an accountant under section 24 of this Act and is a member as defined in section 4(2)(a) and (b) with expertise achieved through formal education and practical experience, and shall be held to a high professional standard in respect to—

- (a) demonstrating and maintaining competence in accountancy in line with International Accounting standards;
- (b) compliance with the Institute's code of ethics;
- (c) maintaining good standing status; and
- (d) subject to enforcement of the rules and regulations of the Institute;

"annual licence" means an annual licence issued pursuant to section 22;

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to finance;

"Chairperson" means the Chairperson of the Institute, and includes a person appointed under paragraph 2 of the First Schedule to act as Chairperson;

"Capital Markets Authority" means the Authority established under section 5 of the Capital Markets Act (Cap. 485A);

"Certified Public Secretary" means a member of the Institute of Certified Public Secretaries of Kenya;

"colleges of technology" means institutions involved in the training of accountants and secretaries;

"company" has the meaning assigned to it under section 2 of the Companies Act (Cap. 486);

"Council" means the Council of the Institute established under section 9;

"Disciplinary Committee" means the committee established under section 31;

"Examinations Board" means the Kenya Accountants and Secretaries National Examinations Board established under section 14;

"examination offence" means an offence as prescribed by section 42 of this Act;

"firm" means a sole proprietorship or partnership established by members in practice;

"Institute" means the Institute of Certified Public Accountants of Kenya established under section 3 of this Act;

"Institute of Certified Public Secretaries of Kenya" means the Institute of that name established under the Certified Public Secretaries of Kenya Act (Cap. 534);

"practising certificate" means a practising certificate issued pursuant to section 21 ;

"register" means the register kept pursuant to section 28;

"Registration Committee" means the Committee established under section 13; and

"trainee accountant" means a person registered by the Examinations Board and who has commenced professional accountancy education or training or is practicing accountancy as part of initial professional development required for qualification as an accountant.

Section 2 of Cap. 533 which it is intended to amend—

2. Interpretation

(1) In this Act, unless the context otherwise requires—

"Board" means the Estate Agents Registration Board established by section 3;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to Land;

"practice as an estate agent" means the doing, in connection with the selling, mortgaging, charging, letting or management of immovable property or of any house, shop or other building forming part thereof, of any of the following acts—

- (a) bringing together, or taking steps to bring together, a prospective vendor, lessor or lender and a prospective purchaser, lessee or borrower; or
- (b) negotiating the terms of sale, mortgage, charge or letting as an intermediary between or on behalf of either of the principals;

"register" means the register kept under section 7;

"registrar" means the registrar of the Board appointed under section 6

Section 2 of Cap. 534 which it is intended to amend—

2. Interpretation

(1) In this Act, unless the context otherwise requires—

"certified public secretary" means a person registered as a certified public secretary under section 19;

"Chairperson of the Board" means the Chairperson of the Registration of Certified Public Secretaries Board appointed by the Cabinet Secretary under the Third Schedule;

"Chairperson of the Institute" means the Chairperson of the Institute and includes a person appointed under paragraph 2 of the First Schedule to act as Chairperson;

"company secretary" means a certified public secretary;

"Council" means the Council of the Institute established by section 8;

"Disciplinary Committee" means the committee established under section 25;

"Examination Board" means the Kenya Accountants and Secretaries National Examinations Board established by section 14 of the Accountants Act (Cap. 531);

"Institute" means the Institute of Certified Public Secretaries of Kenya established by section 3;

"practising certificate" means a practising certificate issued by the Registration Board pursuant to section 14;

"register" means the register kept pursuant to section 22;

"Registration Board" means the Registration of Certified Public Secretaries Board established by section 11.

Section 2 of No. 18 of 2013 which it is intended to amend—

2. Interpretation.

In this Act, unless the context otherwise requires —

"Authority" means the Public Benefit Organizations Regulatory Authority established under section 34;

"authorized agent" means a legal representative, who is a Kenyan citizen, authorized to receive official summonses, notices and inquiries on behalf of an international non-governmental organization;

"Board" means the Board of the Authority established under section 35;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to planning and national development;

"Federation" means the National Federation of Public Benefit Organizations established under section 21;

"international non-governmental organization" means a non-governmental organization with its original registration being in a country other than Kenya and operating in Kenya under a certificate of registration issued under section 10 of this Act;

"public benefit activity" means an activity that supports or promotes public benefit by enhancing or promoting the economic, environmental, social or cultural development or protecting the environment or lobbying or advocating on issues of general public interest or the interest or well-being of the general public or a category of individuals or organizations;

"register" means the register kept by the Authority pursuant to section 15; and

"Tribunal" means the Public Benefit Organizations Disputes Tribunal established under section 50.

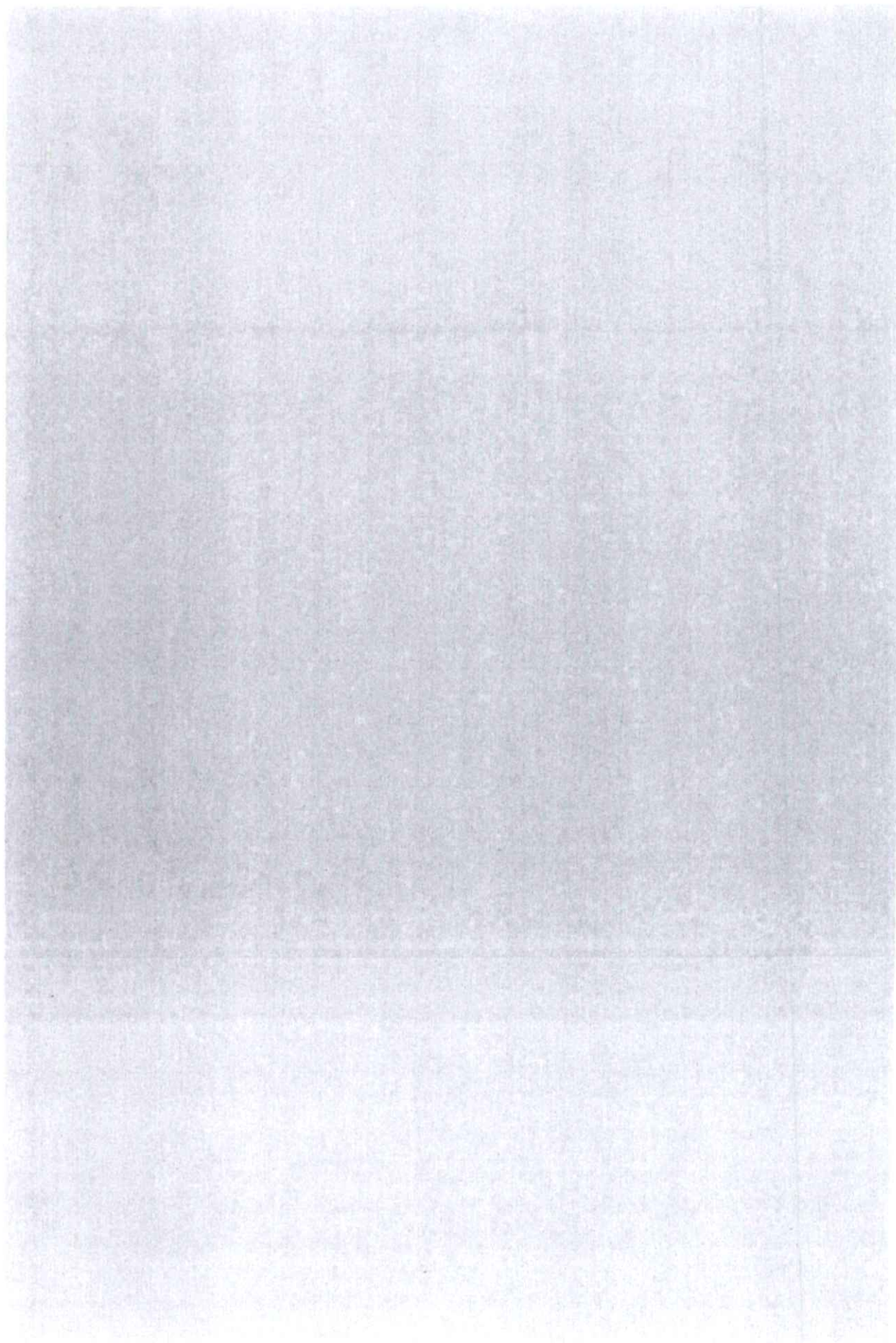
Section 3 of No. 18 of 2013 which it is intended to amend—

3. Objects and purposes of the Act

The objects and purposes of this Act are to—

- (a) encourage and support public benefit organisations in their contribution to meeting the diverse needs of the people of Kenya by—

- (i) creating a conducive environment for the growth of the public benefit organizations sector and for the operations of the registered public benefit organizations;
 - (ii) establishing an administrative and regulatory framework within which public benefit organisations can conduct their affairs;
 - (iii) encouraging public benefit organisations to maintain high standards of governance, transparency and accountability and to improve those standards;
 - (iv) creating an environment within which the public may have access to information concerning registered public benefit organisations; and
 - (v) promoting a spirit of co-operation and shared responsibility within government and among donors and other interested persons in their dealings with public benefit organisations;
- (b) give meaningful protection to the internationally recognized freedoms of expression, association, and peaceful assembly;
 - (c) promote the development of self-regulation among public benefit organizations;
 - (d) promote compliance by public benefit organisations with their legal obligations to exercise effective control and management over the administration of their activities and funding;
 - (e) facilitate a constructive and principled collaboration between public benefit organisations, the Government, business, donors and other actors in order to advance public interest;
 - (f) provide registration procedures, which are transparent, and which will facilitate establishment of public benefit organizations while safeguarding freedom of association;
 - (g) facilitate mechanisms for government collaboration with public benefit organizations, including funding of public benefit organizations activities and involvement of public benefit organizations in the implementation of government projects;
 - (h) facilitate the establishment and growth of public benefit organizations in order to generally strengthen civil society, promote social welfare and improve the conditions and quality of life for the people of Kenya.



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Annexure 4

Advertisement inviting the public to submit memoranda on the Bill



NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

Popo Road, Off Mombasa Road, P.O. BOX 67838-00200, Nairobi, Kenya.
Tel: 0724 253 398 / 0735 013 046 | Email: dnema@nema.go.ke | Website: www.nema.go.ke

ENVIRONMENTAL IMPACT ASSESSMENT STUDY REPORT FOR THE PROPOSED CONSTRUCTION OF BERTH 19B AND ASSOCIATED 19B AND ASSOCIATED INFRASTRUCTURE AT THE PORT OF MOMBASA IN MOMBASA COUNTY

The proponent, Kenya Ports Authority proposes to construct a new berth and a container yard with additional storage space and associated infrastructure such as quay structures and associated quay furniture, stacking yards and port roads, electrical power supply and distribution system, lighting and earthing system, drainage and utility system as well as security and data communication system. The proposed site is at the Port of Mombasa in Mombasa County.

The following are the anticipated impacts and proposed mitigation measures:

IMPACT	PROPOSED MITIGATION MEASURES
Seabed disturbance during piling as a result of noise and vibration	<ul style="list-style-type: none"> Minimize seabed disturbance during foundation piling by restricting the piling to actual point only. Acoustically improve the piling process by vibratory pile driving and or drilled foundations. Intrinsic underwater noise measurements be carried out during piling.
Turbidity and sedimentation	<ul style="list-style-type: none"> Secure the working site with silt curtains. Use of less intrusive dredging methods. Ensure no leakage of dredged material during transportation to the dumping site. Onsite turbidity measurements be carried out during construction period.
Increase in total suspended solids in marine water	<ul style="list-style-type: none"> Secure marine construction site with silt curtains. Secure adjacent offshore construction site with silt traps. Monitor suspended solids in marine water during construction period.
Oil and Lubricants Spills	<ul style="list-style-type: none"> Immediately fix all noticeable leaks that can result in oil and lubricant spills. Promptly collect any spills from all working areas by means of appropriate oil and lubricants absorption materials. Ensure all equipment and machinery are timely serviced as per manufacturer's recommendations to avoid leakages. Activate the oil spill response contingency plan in the event of marine oil spills.
Noise	<ul style="list-style-type: none"> Equipment to be well maintained and serviced. Proponent to provide ear protectors such as; earplugs / earmuffs for ear protection. Monitor noise levels to ensure they are within the prescribed limit as provided for in the Environmental Management and Coordination (Noise and Excessive Vibration Control Regulations, 2009).

The full report of the proposed project is available for inspection during working hours at:

- Principal Secretary, State Department for Environment and Climate Change, Ministry of Environment Climate Change and Forestry, NHIF Building, 12th Floor, Ragati Road, Upper Hill, P.O. Box 30126 - 00100, NAIROBI.
- Director General NEMA, Popo Road, off Mombasa Road, P. O. Box 67838-00200, NAIROBI.
- County Director of Environment, MOMBASA COUNTY

A copy of the EIA report can be downloaded at: www.nema.go.ke

NEMA invites members of the public to submit oral or written comments within thirty (30) days from the date of publication of this notice to the Director General, NEMA to assist the Authority in the decision-making process for this project. Kindly quote ref. No. NEMA/EIA/5/2/2168

Comments can also be e-mailed to: info@nema.go.ke

DIRECTOR GENERAL

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DAILY NATION

REPUBLIC OF KENYA



**THIRTEENTH PARLIAMENT | FOURTH SESSION
THE SENATE**

**INVITATION FOR SUBMISSION OF MEMORANDA AND PUBLIC HEARING
THE COUNTY GOVERNMENT LAWS (AMENDMENT) BILL, 2024
(SENATE BILLS NO. 52 OF 2024)**

The County Government Laws (Amendment) Bill, 2024 (Senate Bills No. 52 of 2024) was read a First Time in the Senate on Wednesday, 5th March, 2025 and thereafter stood committed to the Standing Committee on Devolution and Intergovernmental Relations for consideration. The Committee is required, under standing order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bill and to consider the views and recommendations of the public when the Committee makes its report to the Senate.

The principal object of this Bill is to amend the County Governments Act (Cap. 265) and the Intergovernmental Relations Act (Cap. 265F). The amendments seek to provide a definitive role for a deputy governor, to clarify the responsibilities of a deputy governor and to foster harmonious relations between governors and deputy governors. Additionally, the Bill seeks to provide for the representation of governors by deputy governors in the meetings of the National and County Government Coordinating Summit.

In accordance with the provisions of Article 118 of the Constitution and standing order 145(5) of the Senate Standing Orders, the Standing Committee on Devolution and Intergovernmental Relations now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to senate@parliament.go.ke and copied to senate.development@parliament.go.ke to be received on or before **Tuesday, 25th March, 2025 at 5.00 p.m.**

In addition, the Committee will hold a public hearing on the Bill on **Thursday, 10th April, 2025 at 10.00 a.m.** at the Mini Chamber, County Hall, Nairobi. Members of the public are welcome to attend the hearing.

The Bill and a digest that summarizes the contents and context of the Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

**J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.**



**REPUBLIC OF KENYA
13TH PARLIAMENT - FOURTH SESSION - 2025
THE NATIONAL ASSEMBLY**

**IN THE MATTER OF ARTICLE 118(1)(b) OF THE CONSTITUTION
AND
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 5 OF 2025)
INVITATION TO SUBMIT MEMORANDA**

WHEREAS, Article 118(1)(b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(1) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, The Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (National Assembly Bill No 5 of 2025) was read for the First Time on **Tuesday, 4th March 2025**, and referred to the Departmental Committee on Justice and Legal Affairs for consideration and reporting to the House;

IT IS NOTIFIED that the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill (National Assembly Bill No 5 of 2025) is a Bill sponsored by the Leader of the Majority Party that seeks to amend various Acts of Parliament to address technical compliance deficiencies in the Acts to combat and counter money laundering, financing of terrorism, and financing of proliferation of weapons of mass destruction. The proposed amendments in the Bill seek to address Kenya's remaining and review by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) and review by Financial Action Task Force (FATF), respectively.

In particular, the Bill seeks to empower and strengthen the regulatory bodies established under the following Acts of Parliament to regulate and supervise persons and bodies under their purview for purposes of combating and countering money laundering, financing of terrorism, and financing of proliferation of weapons of mass destruction:

- (1) The Proceeds of Crime and Anti-Money Laundering Act (Cap. 36A);
- (2) The Prevention of Terrorism Act (Cap. 59B);
- (3) The Betting Licenses and Gaming Act (Cap. 131);
- (4) The Retirement Benefits Act (Cap. 397);
- (5) The Mining Act (Cap. 306);
- (6) The SACCO Societies Act (Cap. 480B);
- (7) The Accountants Act (Cap. 531);
- (8) The Estate Agents Act (Cap. 533);
- (9) The Certified Public Secretaries of Kenya Act (Cap. 534); and
- (10) The Public Benefits Organizations Act, 2013 (No. 18 of 2013).

NOW THEREFORE, in compliance with Article 118(1)(b) of the Constitution and National Assembly Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the said bill to the **Departmental Committee on Justice and Legal Affairs**.

A copy of the Bill is available at the National Assembly Table Office, Main Parliament Buildings, and on www.parliament.go.ke/bills-and-committee/committee-business/bills.

The memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842- 00100, Nairobi**, hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi** or emailed to senate@parliament.go.ke to be received on or before **Tuesday, 25th March 2025 at 5.00 p.m.**

**S. NAIROSE, CBS
CLERK OF THE NATIONAL ASSEMBLY**

1st March 2025

"In the Welfare of Kenya and the Best Government of that People"

Listen to youth, Raila told after Kisii booing

• The ODM leader was heckled during a Shabana FC Sportpesa event at Gusii Stadium.

► Some leaders accused the youth of being disrespectful to the veteran politician.

STANLEY ONGWAE, KISII

The hostile reception ODM leader Raila Odinga received at Gusii Stadium on Sunday has elicited mixed reactions from leaders in Kisii and Nyanza counties.

Some leaders condemned the incident, terming it disrespectful while others have said it was a justified after Raila had downplayed former Cabinet Secretary Fred Matiang'i presidential ambitions.

Gusii Council of Elders chairman Joseph Matundura said the incident was a clear communication to the ODM leader to be careful about what he says about other leaders.

"The reaction from the young people was very natural. They were reacting to what Raila himself said while in Kisii days earlier. He demeaned members of the community. What would he expect from the people who have supported him for so long

and to whom he has turned against?" Matundura said.

He urged leaders to be sensitive against creating tribal animosity by what he termed careless utterances.

"A person is judged by the words from his mouth. Leaders should be careful," he said.

But Lake Basin Development Director Helen Makone condemned the heckling, saying it was unfortunate.

"Raila is a statesman, and he should be accorded the respect he deserves," Makone said.

North Mugirango MP Joash Nyamoko also condemned the incident but said the reaction from the crowd was a political statement that should not be underrated.

"That was communication enough that we can also have a say in national politics and we should be respected," Nyamoko said.

Nyanza Woman MP Jerusha Momanyi termed the heckling of a mistake.

"We hold each other in Nyanza in the spirit of togetherness. The kind of reaction we witnessed is against such a bond, and we should think about how to avoid such incidents because in the future, we will need support of our neighbours," she said.

Kisii Senator Richard Onyonka said political intolerance should be



ODM leader Raila Odinga arrives at Gusii Stadium for the unveiling of Shabana FC's new kit. He was received by Kisii Governor Simba Arati. (Sammy Omigo, Standard)

discouraged at all times but said the events in Kisii on Sunday should not be taken lightly.

"The events that happened in Kisii are regrettable. Nevertheless, this should serve as a wake-up call to the concerned people to find out why Raila Odinga was being resisted," Onyonka stated in his X handle.

Kitutu Chache South MP Anthony Kibagendi said the message the youth

passed to Raila was that Gusii people were against his union with President William Ruto.

"It is a serious message to Raila that what he did by joining Ruto was against the wish of not only the Shabana fans but also many other Kenyans who have had him as a defender," Kibagendi said.

Raila was booed when he arrived at Gusii Stadium Sunday afternoon,

where Shabana Football Club was signing a Sh70 million sponsorship deal with Sportpesa.

Youths chanted Matiang'i's name and shouted anti-Raila and Ruto messages. Skirmishes also broke out among the youth.

When he rose to speak, Raila's speech was drowned in chants of 'Matiang'i! Matiang'i!' and 'Raila must go! Ruto must go!'

No one was seriously injured during the melee, according to Kisii County Commander Charles Kasses.

"We have not received any report of anyone who was injured during the incident so far," Kasses said.

According to some of the youth who talked to *The Standard*, the negative response to Raila was linked to his recent remarks about Matiang'i.

After meeting ODM delegates at the ATC Hall in Kisii Town on Thursday last week, Raila reportedly said votes from his Kisii community alone would not make Matiang'i president.

"Any person who listened to what Raila said did not take it kindly, especially after recalling what he did in 2002 when he ditched Simeon Nyachae and supported Mwai Kibaki. We cannot stomach anymore from Raila," said Charles Kenagwa, Kisii Youth For Development chairman.

newsdesk@standardmedia.co.ke



Central Bank of Kenya

PUBLIC NOTICE

ISSUANCE OF A CONSULTATIVE PAPER ON THE PROPOSED REVIEW OF LICENCE FEES FOR COMMERCIAL BANKS IN KENYA

The Central Bank of Kenya (CBK) has released a Consultative paper [<https://www.centralbank.go.ke/2025/03/10/111371>] on the proposed review of commercial bank licence fees for public consultation.

The paper proposes to update the current commercial bank licence fee structure that has been in place for over thirty (30) years. Additionally, it proposes a framework that is aligned with international standards and modern banking dynamics. This is aimed at covering the increasing supervisory and regulatory costs arising from the growing complexity of supervision including consolidated and cross-border supervision.

The Consultative paper also discusses various methodologies adopted by Domestic Regulators and selected international jurisdictions in assessing licence fees and proposes the adoption of Gross Annual Revenue methodology with a 1 percent fee rate, prorated over a period of three years.

In line with constitutional and statutory requirements for public participation, the Consultative paper and proposed Regulations are available on CBK's website [<https://www.centralbank.go.ke>] for access by the public for review and comments.

In this regard, CBK requests all interested stakeholders to share their comments on the document and provide further inputs to this consultation within 21 days from this communication.

We would appreciate receiving your comments or feedback on or before March 31, 2025, via e-mail to fm@centralbank.go.ke with the subject: COMMENTS - PROPOSED REVIEW OF LICENCE FEES FOR COMMERCIAL BANKS IN KENYA.

CENTRAL BANK OF KENYA
MARCH 10, 2025



REPUBLIC OF KENYA

13TH PARLIAMENT - FOURTH SESSION - 2025 THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 100(1)(b) OF THE CONSTITUTION

AND
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 5 OF 2025)

INVITATION TO SUBMIT MEMORANDA

WHEREAS Article 100(1)(b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, The Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (National Assembly Bill No 5 of 2025) was read for the First Time on Tuesday, 4th March 2025, and referred to the Departmental Committee on Justice and Legal Affairs for consideration and reporting to the House;

IT IS NOTIFIED that the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill (National Assembly Bill No 5 of 2025) is a Bill sponsored by the Leader of the Majority Party that seeks to amend various Acts of Parliament to address technical compliance deficiencies in the Acts for combat and counter money laundering, financing of terrorism, and financing of proliferation of weapons of mass destruction. The proposed amendments in the Bill seek to address Kenya's re-rating and review by the Eastern and Southern Africa Anti-Money Laundering Group (ESASAMG) and review by Financial Action Task Force (FATF), respectively.

In particular, the Bill seeks to empower and strengthen the regulatory bodies established under the following Acts of Parliament to regulate and supervise persons and bodies under their purview for purposes of combating and countering money laundering, financing of terrorism, and financing of proliferation of weapons of mass destruction:

- (1) The Proceeds of Crime and Anti-Money Laundering Act (Cap. 584)
- (2) The Prevention of Terrorism Act (Cap. 589)
- (3) The Betting, Lotteries and Gaming Act (Cap. 131)
- (4) The Retirement Benefits Act (Cap. 197)
- (5) The Money Act (Cap. 300)
- (6) The SACCO Societies Act (Cap. 498)
- (7) The Accountants Act (Cap. 537)
- (8) The Estate Agents Act (Cap. 535)
- (9) The Certified Public Secretaries of Kenya Act (Cap. 534) and
- (10) The Public Benefit Organizations Act, 2012 (No. 16 of 2012)

NOW THEREFORE, in compliance with Article 100(1)(b) of the Constitution and National Assembly Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the said bill to the Departmental Committee on Justice and Legal Affairs.

A copy of the bill is available at the National Assembly Table Office, Main Parliament Buildings, and on: www.parliament.go.ke/legislation-assembly/bills

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41862-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to cas@parliament.go.ke to be received on or before Tuesday, 25th March 2025 at 5.00 p.m.

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY

11th March 2025

"The Eye of the Society and the Ear of Government of the People"

Annexure 5

Letter from the Clerk of the National Assembly inviting relevant stakeholders to attend the public participation forum



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA/DDC/JLAC/2025/014

26th March 2025

Dr. Raymond V. O. Omollo, PhD, CBS
Principal Secretary
Ministry of Interior and National Administration
Harambee House, Harambee Avenue
NAIROBI

Mr. Elijah Mwangi
Principal Secretary
State Department of Mining
Ministry of Mining, Blue Economy & Maritime Affairs
Works Building, 3rd Floor, Ngong Rd
NAIROBI

Hon. Shadrack Mose, CBS
Solicitor General
The State Law Office and Department of Justice
Sheria House, Harambee Avenue
NAIROBI

Mr. Abdi Ahmed Mohamud
Commission Secretary / CEO
Ethics and Anti-Corruption Commission
Integrity Centre
Jakaya Kikwete / Valley Road Junction
NAIROBI

Mr. Renson Mulele Ingonga, OGW
Director of Public Prosecutions
ODPP House, Ragati Road, Upper Hill
NAIROBI

Mr. Noordin M. Haji, OGW, CBS
Director General
National Intelligence Service
Marurui
NAIROBI

Mr. Joash Dache, MBS

Commission Secretary / CEO
Kenya Law Reform Commission
Reinsurance Plaza, 3rd Floor, Taifa Road
NAIROBI

Mr. Peter K. Mbugi

Chief Executive Officer
Betting Control and Licensing Board of Kenya
ACK Gardens Annex, Bishop Road, 1st Ngong Avenue
NAIROBI

Mr. Charles Machira

Chief Executive Officer
Retirement Benefits Authority
Rahimtulla Tower, 13th Floor
Upper Hill Road, Opp. UK High Commission
NAIROBI

Mr. Peter Njuguna, EBS

The Chief Executive Officer
The Sacco Societies Regulatory Authority (SASRA)
UAP Old Mutual Tower 19th Floor, Upper Hill Road
NAIROBI

CPA Dr. Grace Kamau

Secretary to Council / CEO
Institute of Certified Public Accountants of Kenya (ICPAK)
CPA Center, Ruaraka, Thika Road
NAIROBI

Ms. Hellen M. Abuya

Registrar
Estate Agents Registration Board (EARB)
Prism Towers, Upperhill, 3rd Ngong Avenue, 17th Floor
NAIROBI

FCS Jeremiah N. Karanja, MBS

Chief Executive Officer
The Institute of Certified Secretaries (ICS)
ICS CPS Governance Centre
Kilimanjaro Road, Upper Hill
NAIROBI

Dr. Laxmana Peter Kiptoo, PhD, OGW

Director General / Secretary to the Board
Public Benefit Organizations Regulatory Authority
Cooperative House, City Square
NAIROBI

Mr. Saitoti Kimerei Maika

Director General
Financial Reporting Centre
Old Mutual Tower 13th Floor
Upper Hill Road

NAIROBI

Mr. Kibiego Kigen

Director
The National Counter Terrorism Centre
Karen

NAIROBI

Ms. Florence Muturi

Chief Executive Officer
Law Society of Kenya (LSK)
Lavington, Opposite Valley Arcade, Gitanga Road

NAIROBI

Ms. Nora Mbagathi

Executive Director
Katiba Institute
House No. 5, The Crescent, Off Parklands Road

NAIROBI

Ms. Oliver Waindi

Executive Director / Secretary
Uraia Trust
Jacaranda Avenue, off Gitanga Road

NAIROBI

Ms. Caroline Gaita

Executive Director
Mzalendo Trust
ACK Garden House, 2nd Floor, Wing A
1st Ngong Avenue

NAIROBI

Mr. John Mwariri

Acting Executive Director
Kituo cha Sheria
Ole Odume Rd, Off Argwings Kodhek Rd

NAIROBI

Mr. Irungu Houghton

Executive Director
Amnesty International
Riverside Studios

NAIROBI

Ms. Sheila Masinde
Executive Director
Transparency International
Kindaruma Road, Off Ring Road, Kilimani
Next to Commodore Office Suites Gate No. 713
NAIROBI

Dear

**RE: INVITATION BY THE DEPARTMENTAL COMMITTEE ON JUSTICE
AND LEGAL AFFAIRS TO SUBMIT VIEWS ON THE ANTI-MONEY
LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS
(AMENDMENT) BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 5 OF 2025)**

The Departmental Committee on Justice and Legal Affairs is established pursuant to Standing Order 216 of the National Assembly Standing Orders, and are mandated to *inter alia*, 'study and review all legislation referred to it.'

The Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (National Assembly Bill No 5. of 2025) sponsored by the Leader of the Majority Party is before the Committee for consideration and reporting back to the House. The Bill seeks to amend various Acts of Parliament to address technical compliance deficiencies in the Acts to combat and counter money laundering; financing of terrorism; and financing of proliferation of weapons of mass destruction. The proposed amendments in the Bill seek to address Kenya's re-rating and review by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG and review by Financial Action Task Force (FATF), respectively.

Article 118(1)(b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees. The Committee has therefore resolved to meet critical stakeholders to make submissions on the Bill.

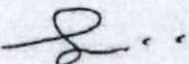
In this regard, the Committee invites you for a meeting on **Thursday, 3rd April 2025 at 10:00 am** at a venue, within Parliament Buildings, to be confirmed in due course. The agenda of the meeting is to receive your views on the Bill.

You are requested to prepare your written submissions in a matrix format that indicates the section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions to be availed to the meeting, a soft copy of which may be sent to the Committee through the Office of the Clerk of the National Assembly via email: cna@parliament.go.ke by Wednesday, 2nd April 2025.

Hard copies of the Bill are available at the National Assembly Table Office, Main Parliament Building while an electronic copy may be accessed on the Parliament website: www.parliament.go.ke/the-national-assembly/house-bills for reference.

Our Liaison Officers on this matter are **Mr. Ahmed Salim** who may be contacted on tel. no. **0710204056** or email: ahmed.salim@parliament.go.ke or **Ms. Jael Ayiego Kilaka** on tel. no. **0725385945** or email: jael.kilaka@parliament.go.ke.

Yours



JEREMIAH W. NDOMBI, MBS
For: **CLERK OF THE NATIONAL ASSEMBLY**

Copies to: -

Hon. Kipchumba Murkomen, EGH

Cabinet Secretary

Ministry of Interior and National Administration

Harambee House, Harambee Avenue

NAIROBI

H.E. Hassan Ali Joho, EGH

Cabinet Secretary

Ministry of Mining, Blue Economy & Maritime Affairs

Works Building, 3rd Floor, Ngong Rd

NAIROBI

Hon. Dorcas Agik Oduor, SC, OGW, EBS

The Attorney General

The State Law Office and the Department of Justice

Sheria House, Harambee Avenue

NAIROBI

Annexure **6**

Memoranda Received



P.O Box 30009-00100
Nairobi Kenya
Tel: +254 711 000 111
Email: info@estateagentsboard.or.ke
Website: <http://www.estateagentsboard.or.ke/>
Prism Tower -17th Floor, Upperhill
3rd Ngongu Avenue - Off Ngongu Road

Ref No: EARB/LEG/VOL1/055

24th March 2025

Clerk of the National Assembly,
P.O Box 41842 - 00100,
NAIROBI

Benjamin Mutut

*As facilitate
to wing
25/3/25*

*DOC
25/03/25*

Dear Sir/Madam,

INVITATION TO SUBMIT MEMORANDA ON THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 5)

The Estate Agents Registration Board (EARB) is the regulatory body for estate agency practice in Kenya, and it derives its mandate from Estate Agents Act, Cap 533. The Board is responsible for registering and overseeing regulation of estate agents.

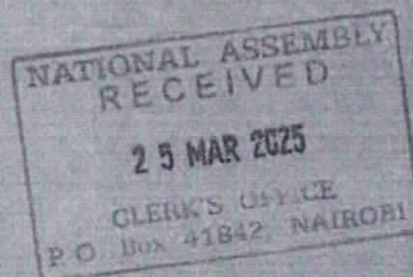
The Estate Agents Registration Board's primary objective is to ensure professionalism, integrity, and ethical conduct among real estate agents, thereby safeguarding the interests of both buyers and sellers, lessors and lessees and managers and their clients in property transactions. We strive to maintain a level playing field in the real estate market and foster public confidence in the services provided by registered estate agents.

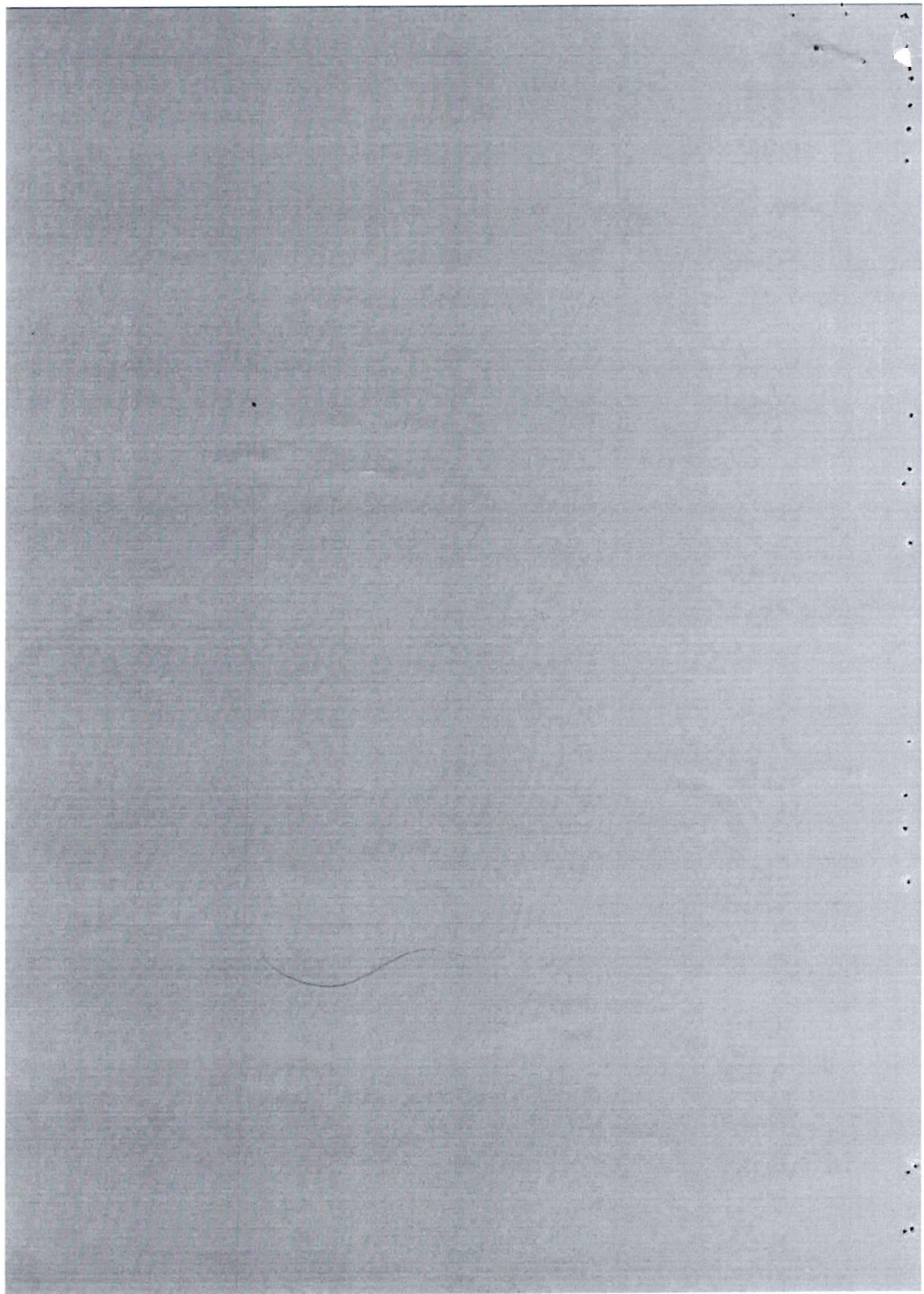
The Board has reviewed The Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (National Assembly Bill No. 5) as per your invitation to submit memoranda notice.

Attached find the Board's memoranda for your consideration.

Yours faithfully,

Hellen Abuya
Hellen Abuya
REGISTRAR





MEMORANDA ON THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 5 OF 2025)

NO	SECTION OF THE ACT	CURRENT SECTION PROVISION	PROPOSED AMMENDMENT	RATIONAL FOR AMMENDMENT
1.	Section 28(3)		<p>Insert 28 (3)</p> <p>(a) The Board shall categorize Estate Agents based on their training, experience and any other suitable criteria.</p> <p>(b) The Board shall maintain a register of listed practicing Estate Agency Firms.</p> <p>(c) All real estate purchasing and selling transactions by land buying companies and developers shall be handled by registered and practising estate agent(s)</p>	<p>There are is a big number of individuals and entities who are practicing with varied academic qualifications.</p> <p>Majority of estate agents practice as firms/entities whereas the Act recognizes registration of Estate agents as individual.</p> <p>There are several entities engaging in estate agency Practice outside EARB's regulatory framework hence the board is unable to</p>

				<p>monitor and report in compliance with POCAMLA.</p> <p>The 3 proposed amendments will help the Board to execute its mandate under the proposed Section 28(1) and 28(2) (a) to (i)</p>
2.	Section 28(3)		Section 28(3) in the Bill becomes Section 28(4)	<p>Inserted a section 28(3) after Section 28(2) thereby converting earlier Section 28(3) to Section 28(4)</p>
3	Section 29(2)		<p>Section 29(2)(a) penalty not exceeding 500,000</p> <p>Section 29(2) (b) penalty not exceeding 100,000</p> <p>Section 29 (2) (c) penalty not exceeding 10,000 per week</p>	<p>Prescribed penalties are not fair</p> <p>i) There are many actors illegally practicing as estate agents; high penalty will discourage registration; many actors will continue practicing illegally</p> <p>ii) Penalty for practicing as unregistered estate agent is 20,000; high penalty will only discourage them from registering</p> <p>iii) There is no requirement that unregistered actors to be reporting agent and therefore the Board has no mandate for regulating and supervising unregistered actors practicing as estate agents</p>

DDC
23/03/25

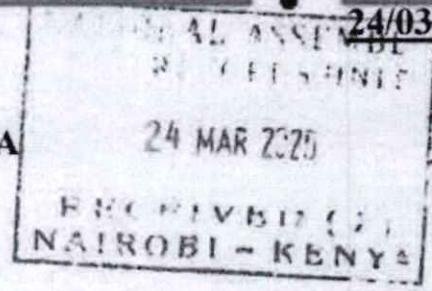


MAU MAU CHILDREN POST COLONIAL ELITES

PARTNERS:

- * MAU MAU WAR VETERANS ASSOCIATES
- * MAU MAU INDIGENOUS KNOWLEDGE
- * JEREMIAH MUGI FOUNDATION
- * MMV ASSOCIATES CLG

TO THE CLERK
 NATIONAL ASSEMBLY OF KENYA
 PARLIAMENT BUILDINGS
 NAIROBI, KENYA



24/03/2025

Benjamin Masit
 pls facilitate
 26/3/25

Dear Sir,

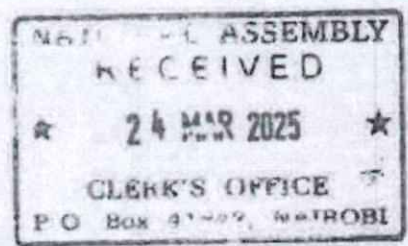
SUBJECT: SUBMISSION OF MEMORANDUM ON PUBLIC BENEFIT ORGANIZATIONS, ANTI-MONEY LAUNDERING, AND COMBATING OF ANTI-TERRORISM FINANCING LAWS

On behalf of MMV Associates CLG and the undersigned Mau Mau organizations, I am pleased to submit the attached **Memorandum on Public Benefit Organizations (PBOs), Anti-Money Laundering, and Combating of Anti-Terrorism Financing Laws** for consideration by the National Assembly.

This memorandum highlights the need to incorporate provisions that **recognize and facilitate compensation for Mau Mau War Veterans** and their descendants under the existing legislative framework. It further emphasizes the importance of **protecting funds meant for veterans' welfare from corruption and financial mismanagement**, ensuring that these resources directly benefit the intended recipients.

We also acknowledge the efforts of the National Assembly in addressing matters of public interest through legislative reforms and commend the enactment of the **Public Benefit Organizations Act**, which provides a structured framework for non-governmental and community-based organizations. We believe that **aligning the compensation of Mau Mau veterans with the PBO Act and related financial transparency laws will help ensure historical justice** for those who fought for Kenya's independence.

Additionally, we propose the **implementation of the National Village Administration Policy (March 2024)** to enhance **grassroots governance and transparency** in resource distribution.



We appreciate your attention to this matter and look forward to further engagement with the National Assembly. Should you require any clarifications or additional information, we remain available for discussion at your earliest convenience.

Thank you for your consideration.

Yours faithfully,



James Njuguna Mahuria

Director General

MMV Associates CLG



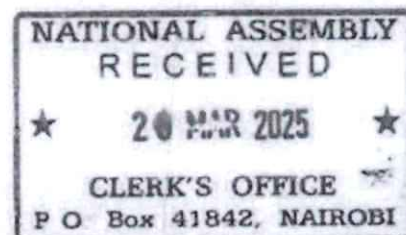
LAW SOCIETY OF KENYA
 Lavington, Opposite Valley Arcade
 Gitanga Road
 P.O. Box 72219-00200
 NAIROBI
 Tel. +254 111 045 300

DDc
 26/03/25



MEMORANDUM
 TO
 THE NATIONAL ASSEMBLY
 ON
 THE PROPOSED LEGISLATIVE AMENDMENTS TO THE ANTI-MONEY
 LAUNDERING AND COMBATING OF TERRORISM LAWS (AMENDMENT) BILL)
 NATIONAL ASSEMBLY BILL NO. 5 OF 2025)
 MARCH, 2025

Faith Mony Odhiambo, President Law Society of Kenya
 Lavington, opp Valley Arcade,
 Gitanga Road P.O Box 72219 - 00200 Nairobi | Kenya
 Tel: +254 111 045 300
 Email: president@lsk.or.ke
 Website: www.lsk.or.ke



INTRODUCTION

The Law Society of Kenya is a professional statutory body established under the Law Society of Kenya Act, No. 21 of 2014 with a mandatory membership of all Advocates in Kenya.

The organs of the Society are the General Membership, the Council, the Branches and the Secretariat. The Council is the governing body of the Law Society of Kenya. It comprises a President, a Vice- President and eleven other members, all of whom must be members of the Law Society of Kenya. Council members are elected every two years by the members of the Society by means of a secret ballot conducted in accordance with the Law Society of Kenya Act.

Currently, the Council is comprised of The President, The Vice-president and 11 Council members namely:

- President, Faith Mony Odhiambo
- Vice President, Mwaura Kabata
- General Membership Representatives, Tom K'opere, Teresia Wavinya, Hosea Manwa
- Nairobi Representatives, Gloria Kimani, Irene Otto, Stephen Mbugua
- Up-country Representatives, Vincent Githaiga, Lindah Kiome, Hezekiah Aseso, Zulfa Roble
- Coast Representative, Elizabeth Wanjeri
- Secretary/CEO, Florence W. Muturi

One of the Law Society of Kenya statutory objects as provided in section 4(a) of the Act is to assist the Government and the courts in all matters affecting legislation and the administration and practice of law in Kenya.

Pursuant to this statutory mandate and the consent entered into by parties to Milimani Constitutional Petition No. E005 of 2022- Mwaura Kabata Versus Hon. Attorney General & 4 Others, the Law Society makes the following presentation on the Proposed Legislative Amendments to the Anti- Money Laundering and Combating of Terrorism Laws (Amendment) Bill (National Assembly Bill No. 5 of 2025).

GENERAL COMMENTS.

The Proceeds of Crime and Anti Money Laundering Act, Cap 59A Laws of Kenya (POCAMLA) is the primary legislation governing anti-money laundering (AML) efforts in Kenya and it provides for measures for combating the offence; including the identification, tracing, freezing, seizure and confiscation of the proceeds of crime; as well as creating institutional arrangements to facilitate the fight against money laundering (ML).

The Proceeds of Crime and Money Laundering Act, Cap 59A, Laws of Kenya (POCAMLA) designates advocates, notaries and other independent legal professionals who are sole practitioners, partners or employees within professional firms as Designated Non-Financial Businesses or Professions (DNFBPs) which are reporting institutions under the Act for ML in Kenya.

Mr. Mwaura Kabata the Petitioner in NAIROBI CONSTITUTIONAL PETITION E005 OF 2022 moved to court challenging the constitutionality of certain provisions of the Act. Other parties specifically the Law Society of Kenya made applications and was enjoined as an interested party. Parties later entered into a consent dated *1st August 2023* which was adopted by the Court as an Order which involved providing a way of making the LSK a self-regulatory body under POCAMLA.

Subsequently, *on 1st September 2023*, the President of the Republic of Kenya assented to the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, No. 10 of 2023, which designated LSK as a self-regulatory body (SRB) and made attendant changes to the POCAMLA and the Law Society of Kenya Act, Cap 18, Laws of Kenya to cloth the LSK with supervisory powers as an SRB when having oversight over its members for AML/CFT purposes.

However, in order to effectively and properly undertake its responsibilities as an SRB as envisaged by the FATF standards; to further effect the consent recorded in NAIROBI CONSTITUTIONAL PETITION E005; to enable LSK to issue enforceable guidelines for AML/CFT purposes; and place specific reporting responsibilities on Advocates, it is proposed that filing of transaction documents and business authorization documents

including licenses and permits be exclusively handled by Advocates to enable effective reporting on the same and to further consolidate AML/CFT measures.

Therefore, the Objective of this Memorandum is to: -

- 1.1 Amend the Proceeds of Crime and Anti-Money Laundering Act, 2009 (POCAMLA) to further incorporate the consensus reached in the negotiations arising from an out of court settlement in NAIROBI CONSTITUTIONAL PETITION E005 to designate, operationalize and fortify LSK as a Self-Regulatory Body.
- 1.2 To amend related laws so as to allow the LSK to effectively carry out its supervisory mandate over lawyers, notaries and independent legal professionals in enforcing Anti-Money Laundering in the legal profession.

PROPOSED AMENDMENTS.

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>
The Kenya Citizenship and Immigration Act, Cap 170	s. 40	Insert the following new subsection 40(2A) immediately after subsection 40 (2) – (2A) An Application for work and/or business permit shall be made by an Advocate to the Director in the prescribed manner.
The Trustees (Perpetual Succession) Act, Cap 164	s. 5 (1)	Delete subsection (1) and substitute therefor the following new subsection – (1) An application to the Registrar for a certificate under this Act shall be in writing, signed by the Advocate making it and shall contain the several particulars

		specified in the First Schedule, or such of them as shall be applicable to the case.
The Companies Act, Cap 486	s. 13 (1)	Delete subsection (1) and substitute therefor the following new subsection – (1) A person who wishes to register a company shall, through an Advocate, lodge with the registrar - (a) an application for registration of the company that complies with subsection (2) and (4) (b) A memorandum of association of the company; and (c) except as provided by section 21, a copy of the proposed articles of association.
	s. 74	Insert the following new subsection 2(c) immediately after subsection 2(b) – (c) is made through an Advocate.
	s. 975 (1)	Delete subsection (1) and substitute therefor the following new subsection – (1) Subject to this Part, a foreign company that wishes to be registered as a foreign company shall through an Advocate, lodge with the registrar an application that is in accordance with this Division.
The Land Registration Act, Cap 300	s. 36	Insert the following new subsection (8A) immediately after subsection (8) – (8A) Any proposition to deal in land in the manner proposed in subsection (8) above can only be carried out by an Advocate of the High Court of Kenya.
		Insert the following new section 36A –

		36A. The execution of any instrument relating to any disposition and dealings affecting land must be effected in the presence of an Advocate of the High Court of Kenya, a magistrate, a judge or a notary public.
	s. 44	Delete subsection (2) and substitute therefor the following new subsection – (2) The execution of any instrument referred to in subsection (1) by a person shall consist of appending a person's signature on it or affixing the thumbprint or other mark as evidence of personal acceptance of that instrument. Such execution shall be done in the presence of an Advocate.
The Land Act, Cap. 280	s. 12A	Delete subsection (2) and substitute therefor the following new subsection – (2) No transaction in controlled land including a transfer for a consideration by way of trusts, gift intervivos or otherwise to an eligible person shall be dealt with unless such a transaction is done through an Advocate of the High Court of Kenya and without the prior written approval of the Cabinet Secretary.
Proceeds of Crime and Anti-Money Laundering Act, Cap 59A	s. 49 (1) (f) (g)	Delete the provisions

EXPLANATORY NOTES TO THE AMENDMENTS

A. Amendments to the Kenya Citizenship and Immigration Act		
No.	Proposed Amendment	Rationale
1.	<p>Insert the following new subsection 40 (2A) immediately after subsection 40 (2) –</p> <p>(2A) An Application for work and/or business permit shall be made by an Advocate to the Director in the prescribed manner.</p>	<p>This proposal seeks to curtail fraud and misuse of permits by individuals engaging in illegal business activities in order to maintain economic integrity.</p>
B. Amendment to the Trustees (Perpetual Succession) Act		
No.	Proposed Amendment	Rationale
2.	<p>Delete subsection 5 (1) and substitute therefor the following new subsection –</p> <p>(1) An application to the Registrar for a certificate under this Act shall be in writing, signed by the Advocate making it and shall contain the several particulars specified in the First Schedule, or such of them as shall be applicable to the case</p>	<p>This proposal seeks to ensure that Applications for registration of trusts are made through Advocates and thereby ensuring that trusts that are registered are in compliance with AML/CFT regulations.</p>

C. Amendment to the Companies Act

No.	Proposed Amendment	Rationale
3.	<p>Delete subsection 13 (1) and substitute therefor the following new subsection –</p> <p>(1) A person who wishes to register a company shall, through an Advocate, lodge with the registrar –</p> <p>(a) an application for registration of the company that complies with subsection (2) and (4);</p> <p>(b) A memorandum of association of the company; and</p> <p>(c) except as provided by section 21, a copy of the proposed articles of association.</p>	<p>This proposal seeks to ensure that companies are registered through Advocates who are regulated by the POCAMLA thereby ensuring enhanced due diligence; compliance with reporting obligations to the FRC; professional and ethical oversight and reduction of unscrupulous or unregulated agents facilitating company formation for illicit actors.</p>
4.	<p>Insert the following new subsection 74 (2) (c) immediately after subsection 74 (2) (b) –</p> <p>(c) is made through an Advocate.</p>	<p>Conversion of a private company is a fundamental change to the structure of a company which could lead to loopholes in terms of compliance due to the change in structure. This proposal will ensure prevention of regulatory arbitrage; and scrutiny of capitalization & fund injections.</p>
5.	<p>Delete subsection 975 (1) and substitute therefor the following new subsection –</p> <p>(1) Subject to this Part, a foreign company that wishes to be</p>	<p>This proposal seeks to ensure that companies are registered through Advocates who are regulated by the POCAMLA thereby ensuring enhanced due diligence; compliance with reporting obligations to the FRC; professional and ethical oversight and reduction of</p>

<p>registered as a foreign company shall through an Advocate, lodge with the registrar an application that is in accordance with this Division.</p>	<p>unscrupulous or unregulated agents facilitating company formation for illicit actors.</p> <p>Further, and specifically to foreign companies, this proposal will ensure scrutiny of foreign beneficial ownership; mitigation of tax evasion and illicit financial flows (IFFs); ensuring compliance with local AML/CFT laws; verification of cross-border transactions & source of funds; prevention of shelf & shell companies; and facilitating cooperation with international AML entities.</p>
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D. Amendment to the Land Registration Act

No.	Proposed Amendment	Rationale
6.	<p>Insert the following new subsection 36(8A) immediately after subsection 36(8) –</p> <p>(8A) Any proposition to deal in land in the manner proposed in subsection (8) above can only be carried out by an Advocate of the High Court of Kenya.</p>	<p>This proposal seeks to smoke out persons who illegally and fraudulently procure the consent of validly registered proprietors of land and deal with such land based on irregularly acquired consent.</p>
7.	<p>Insert the following new section 36A –</p> <p>36A. The execution of any instrument relating to any disposition and dealings affecting</p>	<p>This proposal aims to ensure that any disposition relating to land is executed by persons who are bound by professionally approved ethics and standards. This will help to reduce cases of land fraud.</p>

	land must be effected in the presence of an Advocate of the High Court of Kenya, a magistrate, a judge or a notary public.	
8.	<p>Delete subsection 44 (2) and substitute therefor the following new subsection –</p> <p>(2) The execution of any instrument referred to in subsection (1) by a person shall consist of appending a person's signature on it or affixing the thumbprint or other mark as evidence of personal acceptance of that instrument. Such execution shall be done in the presence of an Advocate.</p>	<p>This proposal seeks to further affirm the proposal requiring that instruments relating to land are executed by an Advocate of the High Court of Kenya over and above them being in writing. This ensures that transactions in land are not regularized just by virtue of being in writing.</p>
E. Amendments to the Land Act		
No.	Proposed Amendment	Rationale
9.	<p>Delete subsection 12A (2) and substitute therefor the following new subsection –</p> <p>(2) No transaction in controlled land including a transfer for a consideration by way of trusts, gift intervivos or otherwise to an</p>	<p>This proposal seeks to ensure that transaction with regards to controlled land are carried out by an Advocate of the High Court of Kenya who can be put to account and is answerable to relevant authorities incase of any irregularities.</p>

	<p>eligible person shall be dealt with unless such a transaction is done through an Advocate of the High Court of Kenya and without the prior written approval of the Cabinet Secretary.</p>	
F. Amendments to the Proceeds of Crime and Anti-Money Laundering Act		
No.	Proposed Amendment	Rationale
10	<p>Deletion of the provisions of <i>Sections 49 (1) (f) and (g) of the Proceeds of Crime and Money Laundering Act</i></p>	<p>This proposal seeks to eliminate conflict of interest by Kenya Bankers Association (KBA) and Institute of Certified Public Accountants of Kenya (ICPAK) representation in the Anti Money Laundering Advisory Board (AMLAB)</p> <p>Pursuant to <i>Sec.48 of POCAMLA</i>, the KBA and ICPAK representative have reporting obligations to the FRC thus creating direct conflict of interest. Their membership in the AMLAB involves in them in decisions making that affects the FRC's ability to oversee and supervise AML/CFT measures within their own institutions and undermines public trust and confidence in the FRC's operations.</p> <p>Further, the provisions of <i>Sec. 49(1)(h) of the POCAMLA</i>, the Cabinet Secretary is mandated to appoint to AMLAB two other persons from the private sector who shall have knowledge and expertise in matters relating to money laundering'. The above provision sufficiently covers the interest of the private sector stakeholders.</p>

	<p>In view of their membership in the AMLAB, other similar professional bodies i.e... LSK and associations i.e... ICPS and AKI which are similarly reporting institutions have cited this provision as being discriminatory in law, and championed have their inclusion as well. This has a potential to derail the legislative principle under-pinning the creation and establishment of the AMLAB. Were this new bodies and association to be included in the AMLAB, the composition and size of AMLAB shall violate the Mwongozo Code of Governance.</p> <p>Also, provisions of <i>Sec. 25(2) and 25(5)(b) of the POCAMLA</i>, bestows the AMLAB a responsibility in the recruitment of the FRC Director General (DG). This has also created a conflict of interest which undermines the independence and function of the DG, since some members of the AMLAB (KBA and ICPAK) are under the regulation and supervision of the Director General.</p>
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The National Assembly is requested to:

Support the amendments aimed at securing compliance with FATF standards on inclusion of lawyers as reporting agencies and fortifying the LSK's role as a Self-Regulating Body.

Yours faithfully,



Faith Odhiambo

President Law Society of Kenya.



LAW SOCIETY OF KENYA

Lavington, Opposite Valley Arcade

Gitanga Road

P.O. Box 72219-00200

NAIROBI

Tel. +254 111 045 300

MEMORANDUM

TO

THE NATIONAL ASSEMBLY

ON

THE PROPOSED LEGISLATIVE AMENDMENTS TO THE ANTI-MONEY
LAUNDERING AND COMBATING OF TERRORISM LAWS (AMENDMENT) BILL)

NATIONAL ASSEMBLY BILL NO. 5 OF 2025)

MARCH, 2025

Faith Mony Odhiambo, President Law Society of Kenya

Lavington, opp Valley Arcade,

Gitanga Road P.O Box 72219 - 00200 Nairobi | Kenya

Tel: +254 111 045 300

Email: president@lsk.or.ke

Website: www.lsk.or.ke

INTRODUCTION

The Law Society of Kenya is a professional statutory body established under the Law Society of Kenya Act, No. 21 of 2014 with a mandatory membership of all Advocates in Kenya.

The organs of the Society are the General Membership, the Council, the Branches and the Secretariat. The Council is the governing body of the Law Society of Kenya. It comprises a President, a Vice- President and eleven other members, all of whom must be members of the Law Society of Kenya. Council members are elected every two years by the members of the Society by means of a secret ballot conducted in accordance with the Law Society of Kenya Act.

Currently, the Council is comprised of The President, The Vice-president and 11 Council members namely:

- President, Faith Mony Odhiambo
- Vice President, Mwaura Kabata
- General Membership Representatives, Tom K'opere, Teresia Wavinya, Hosea Manwa
- Nairobi Representatives, Gloria Kimani, Irene Otto, Stephen Mbugua
- Up-country Representatives, Vincent Githaiga, Lindah Kiome, Hezekiah Aceso, Zulfa Roble
- Coast Representative, Elizabeth Wanjeri
- Secretary/CEO, Florence W. Muturi

One of the Law Society of Kenya statutory objects as provided in section 4(a) of the Act is to assist the Government and the courts in all matters affecting legislation and the administration and practice of law in Kenya.

Pursuant to this statutory mandate and the consent entered into by parties to Milimani Constitutional Petition No. E005 of 2022 – Mwaura Kabata versus Hon. Attorney General & 4 Others., the Law Society makes the following presentation on the Proposed Legislative Amendments to the Anti-Money Laundering and Combating Of Terrorism Laws (Amendment) Bill [National Assembly Bill No. 5 Of 2025];

GENERAL COMMENTS.

The Proceeds of Crime and Anti Money Laundering Act, Cap 59A Laws of Kenya (POCAML) is the primary legislation governing anti-money laundering (AML) efforts in Kenya and it provides for measures for combating the offence; including the identification, tracing, freezing, seizure and confiscation of the proceeds of crime; as well as creating institutional arrangements to facilitate the fight against money laundering (ML).

The Proceeds of Crime and Money Laundering Act, Cap 59A, Laws of Kenya (POCAML) designates advocates, notaries and other independent legal professionals who are sole practitioners, partners or employees within professional firms as Designated Non-Financial Businesses or Professions (DNFBPs) which are reporting institutions under the Act for ML in Kenya.

Mr. Mwaura Kabata the Petitioner in NAIROBI CONSTITUTIONAL PETITION E005 OF 2022 moved to court challenging the constitutionality of certain provisions of the Act. Other parties specifically the Law Society of Kenya made applications and was enjoined as an interested party. Parties later entered into a consent dated *1st August 2023* which was adopted by the Court as an Order which involved providing a way of making the LSK a self-regulatory body under POCAML.

Subsequently, *on 1st September 2023*, the President of the Republic of Kenya assented to the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, No. 10 of 2023. which designated LSK as a self-regulatory body (SRB) and made attendant changes to the POCAML and the Law Society of Kenya Act, Cap 18, Laws of Kenya to cloth the LSK with supervisory powers as an SRB when having oversight over its members for AML/CFT purposes.

However, in order to effectively and properly undertake its responsibilities as an SRB as envisaged by the FATF standards; to further effect the consent recorded in NAIROBI CONSTITUTIONAL PETITION E005 OF 2022; to enable LSK to issue enforceable guidelines for AML/CFT purposes; and place specific reporting responsibilities on

Advocates, it is proposed that filing of transaction documents and business authorization documents including licenses and permits be exclusively handled by Advocates to enable effective reporting on the same and to further consolidate AML/CFT measures.

Therefore, the Objective of this Memorandum is to: -

- 1.1 Amend the Proceeds of Crime and Anti-Money Laundering Act, 2009 (POCAML) to further incorporate the consensus reached in the negotiations arising from an out of court settlement in NAIROBI CONSTITUTIONAL PETITION E005 OF 2022 to designate, operationalize and fortify LSK as a Self-Regulatory Body.
- 1.2 To amend related laws so as to allow the LSK to effectively carry out its supervisory mandate over lawyers, notaries and independent legal professionals in enforcing Anti-Money Laundering in the legal profession.

PROPOSED AMENDMENTS.

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>
The Kenya Citizenship and Immigration Act, Cap 170	s. 40	Insert the following new subsection 40(2A) immediately after subsection 40 (2) – (2A) An Application for work and/or business permit shall be made by an Advocate to the Director in the prescribed manner.
The Trustees (Perpetual Succession) Act, Cap 164	s. 5 (1)	Delete subsection (1) and substitute therefor the following new subsection – (1) An application to the Registrar for a certificate under this Act shall be in writing, signed by the Advocate

		making it and shall contain the several particulars specified in the First Schedule, or such of them as shall be applicable to the case.
The Companies Act, Cap 486	s. 13 (1)	Delete subsection (1) and substitute therefor the following new subsection – (1) A person who wishes to register a company shall, through an Advocate, lodge with the registrar - (a) an application for registration of the company that complies with subsection (2) and (4) (b) A memorandum of association of the company; and (c) except as provided by section 21, a copy of the proposed articles of association.
	s. 74	Insert the following new subsection 2(c) immediately after subsection 2(b) – (c) is made through an Advocate.
	s. 975 (1)	Delete subsection (1) and substitute therefor the following new subsection – (1) Subject to this Part, a foreign company that wishes to be registered as a foreign company shall through an Advocate, lodge with the registrar an application that is in accordance with this Division.
The Land Registration Act, Cap 300	s. 36	Insert the following new subsection (8A) immediately after subsection (8) – (8A) Any proposition to deal in land in the manner proposed in subsection (8) above can only be carried out by an Advocate of the High Court of Kenya.
		Insert the following new section 36A –

		36A. The execution of any instrument relating to any disposition and dealings affecting land must be effected in the presence of an Advocate of the High Court of Kenya, a magistrate, a judge or a notary public.
	s. 44	Delete subsection (2) and substitute therefor the following new subsection – (2) The execution of any instrument referred to in subsection (1) by a person shall consist of appending a person’s signature on it or affixing the thumbprint or other mark as evidence of personal acceptance of that instrument. Such execution shall be done in the presence of an Advocate.
The Land Act, Cap. 280	s. 12A	Delete subsection (2) and substitute therefor the following new subsection – (2) No transaction in controlled land including a transfer for a consideration by way of trusts, gift <i>intervivos</i> or otherwise to an eligible person shall be dealt with unless such a transaction is done through an Advocate of the High Court of Kenya and without the prior written approval of the Cabinet Secretary.
Proceeds of Crime and Anti-Money Laundering Act, Cap 59A	s. 49 (1) (f) (g)	Delete the provisions
	s. 25(5) (a)	Delete the word “ <i>four</i> ” immediately after the words “ <i>for a term of</i> ” and replace with “ <i>six</i> ” immediately before the word “ <i>years</i> ”.

EXPLANATORY NOTES TO THE AMENDMENTS

A. Amendments to the Kenya Citizenship and Immigration Act		
No.	Proposed Amendment	Rationale
1.	<p>Insert the following new subsection 40 (2A) immediately after subsection 40 (2) –</p> <p>(2A) An Application for work and/or business permit shall be made by an Advocate to the Director in the prescribed manner.</p>	<p>This proposal seeks to curtail fraud and misuse of permits by individuals engaging in illegal business activities in order to maintain economic integrity.</p>
B. Amendment to the Trustees (Perpetual Succession) Act		
No.	Proposed Amendment	Rationale
2.	<p>Delete subsection 5 (1) and substitute therefor the following new subsection –</p> <p>(1) An application to the Registrar for a certificate under this Act shall be in writing, signed by the Advocate making it and shall contain the several particulars specified in the First Schedule, or such of them as shall be applicable to the case</p>	<p>This proposal seeks to ensure that Applications for registration of trusts are made through Advocates and thereby ensuring that trusts that are registered are in compliance with AML/CFT regulations.</p>
C. Amendment to the Companies Act		
No.	Proposed Amendment	Rationale

3.	<p>Delete subsection 13 (1) and substitute therefor the following new subsection –</p> <p>(1) A person who wishes to register a company shall, through an Advocate, lodge with the registrar –</p> <p>(a) an application for registration of the company that complies with subsection (2) and (4)</p> <p>(b) A memorandum of association of the company; and</p> <p>(c) except as provided by section 21, a copy of the proposed articles of association.</p>	<p>This proposal seeks to ensure that companies are registered through Advocates who are regulated by the POCAMLA thereby ensuring enhanced due diligence; compliance with reporting obligations to the FRC; professional and ethical oversight and reduction of unscrupulous or unregulated agents facilitating company formation for illicit actors.</p>
4.	<p>Insert the following new subsection 74 (2) (c) immediately after subsection 74 (2) (b) –</p> <p>(c) is made through an Advocate.</p>	<p>Conversion of a private company is a fundamental change to the structure of a company which could lead to loopholes in terms of compliance due to the change in structure. This proposal will ensure prevention of regulatory arbitrage; and scrutiny of capitalization & fund injections.</p>
5.	<p>Delete subsection 975 (1) and substitute therefor the following new subsection –</p> <p>(1) Subject to this Part, a foreign company that wishes to be registered as a foreign company shall through an Advocate, lodge</p>	<p>This proposal seeks to ensure that companies are registered through Advocates who are regulated by the POCAMLA thereby ensuring enhanced due diligence; compliance with reporting obligations to the FRC; professional and ethical oversight and reduction of unscrupulous or unregulated agents facilitating company formation for illicit actors.</p>

<p>with the registrar an application that is in accordance with this Division.</p>	<p>Further, and specifically to foreign companies, this proposal will ensure scrutiny of foreign beneficial ownership; mitigation of tax evasion and illicit financial flows (IFFs); ensuring compliance with local AML/CFT laws; verification of cross-border transactions & source of funds; prevention of shelf & shell companies; and facilitating cooperation with international AML entities.</p>
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D. Amendment to the Land Registration Act

No.	Proposed Amendment	Rationale
6.	<p>Insert the following new subsection 36(8A) immediately after subsection 36(8) –</p> <p>(8A) Any proposition to deal in land in the manner proposed in subsection (8) above can only be carried out by an Advocate of the High Court of Kenya.</p>	<p>This proposal seeks to smoke out persons who illegally and fraudulently procure the consent of validly registered proprietors of land and deal with such land based on irregularly acquired consent.</p>
7.	<p>Insert the following new section 36A –</p> <p>36A. The execution of any instrument relating to any disposition and dealings affecting land must be effected in the presence of an Advocate of the High Court of Kenya, a magistrate, a judge or a notary public.</p>	<p>This proposal aims to ensure that any disposition relating to land is executed by persons who are bound by professionally approved ethics and standards. This will help to reduce cases of land fraud.</p>

8.	<p>Delete subsection 44 (2) and substitute therefor the following new subsection –</p> <p>(2) The execution of any instrument referred to in subsection (1) by a person shall consist of appending a person’s signature on it or affixing the thumbprint or other mark as evidence of personal acceptance of that instrument. Such execution shall be done in the presence of an Advocate.</p>	<p>This proposal seeks to further affirm the proposal requiring that instruments relating to land are executed by an Advocate of the High Court of Kenya over and above them being in writing. This ensures that transactions in land are not regularized just by virtue of being in writing.</p>
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E. Amendments to the Land Act

No.	Proposed Amendment	Rationale
9.	<p>Delete subsection 12A (2) and substitute therefor the following new subsection –</p> <p>(2) No transaction in controlled land including a transfer for a consideration by way of trusts, gift intervivos or otherwise to an eligible person shall be dealt with unless such a transaction is done through an Advocate of the High Court of Kenya and without the</p>	<p>This proposal seeks to ensure that transaction with regards to controlled land are carried out by an Advocate of the High Court of Kenya who can be put to account and is answerable to relevant authorities incase of any irregularities.</p>

	prior written approval of the Cabinet Secretary.	

F. Amendments to the Proceeds of Crime and Anti-Money Laundering Act

No.	Proposed Amendment	Rationale
10	Deletion of the provisions of <i>Sections 49 (1) (f) and (g) of the Proceeds of Crime and Money Laundering Act</i>	<p>This proposal seeks to eliminate conflict of interest by Kenya Bankers Association (KBA) and Institute of Certified Public Accountants of Kenya (ICPAK) representation in the Anti Money Laundering Advisory Board (AMLAB)</p> <p>Pursuant to <i>Sec.48 of POCAMLA</i>, the KBA and ICPAK representative have reporting obligations to the FRC thus <u>creating direct conflict of interest</u>. Their membership in the AMLAB involves in them in decisions making that affects the FRC's ability to oversee and supervise AML/CFT measures within their own institutions and undermines public trust and confidence in the FRC's operations.</p> <p>Further, the provisions of <i>Sec. 49(1)(h) of the POCAMLA</i>, the Cabinet Secretary is mandated to appoint to AMLAB two other persons from the private sector who shall have knowledge and expertise in matters relating to money laundering'. The above provision sufficiently covers the interest of the private sector stakeholders.</p>

		<p>In view of their membership in the AMLAB, other similar professional bodies i.e.. LSK and associations i.e.. ICPS and AKI which are similarly reporting institutions have cited this provision as being discriminatory in law, and championed have their inclusion as well. This has a potential to derail the legislative principle underpinning the creation and establishment of the AMLAB. Were this new bodies and association to be included in the AMLAB, the composition and size of AMLAB shall violate the Mwongozo Code of Governance.</p> <p>Also, provisions of <i>Sec. 25(2) and 25(5)(b) of the POCAMLA</i>, bestows the AMLAB a responsibility in the recruitment of the FRC Director General (DG). This has also created a conflict of interest which undermines the independence and function of the DG, since some members of the AMLAB (KBA and ICPAK) are under the regulation and supervision of the Director General.</p>
11.	<p>Amendment of <i>Section 25(5)(a) of the Proceed of Crime and Anti-Money Laundering Act, 2009</i> to align the term of the Director General with that of similar agencies by:</p> <p>Deleting the word “four” immediately after the words “for a term of” and replacing with</p>	<p>The Financial Reporting Centre (Centre) is established pursuant to <i>Sec. 21</i> of the Proceeds of Crime and Anti Money Laundering Act 2009 (POCAMLA), with principal objective of assisting in the identification of the proceeds of crime and the combating of money laundering, terrorism financing and proliferation financing. The Centre carries out these objectives by making information collected by it available to investigating authorities, supervisory bodies and any other bodies relevant to facilitate the administration and enforcement of the laws of Kenya, exchanging information with similar bodies in other countries regarding money laundering activities and related</p>

“six” immediately before the word “years”.

offences, and also ensuring Kenya’s compliance with international standards and best practice in anti-money laundering, counter financing of terrorism and proliferation financing measures.

The objectives and functions of the Centre pursuant to the provisions of *Secs. 24 and 25, Sec 28* gives the Director General the responsibilities of making all decisions that ensures that the Centre discharges and performs its legislative mandate. These responsibilities and functions are performed without any control or direction of any other body or persons. The import of this was to safeguard the autonomy and independence of the Centre given its unique mandate.

The justification for the proposed amendment to *Sec. 25(5)(a)* is to;

- a) Align the term limit of the Director General of the Financial Reporting Centre with the term limits of Heads of similar counterpart similar agencies such as *Ethics and Anti-Corruption Commission*, whose Secretary/CEO has a one six-year non-renewable term. This is crucial given the fact that POCAMLA has guaranteed the independence and autonomy of the Centre to enable it plays its critical AML/CFT role of providing financial intelligence to law enforcement agencies for investigation, as well as the primary AML/CFT regulation and supervision of the Country’s Financial and Designated Non-Financial Businesses and Professions (DNFBPs) sectors. The aforesaid

legislative mandate makes the Director General functional independence paramount.

b) The amendment will also secure the tenure of the Director General, ensuring that he/she can execute his/her mandate without the potential and inherent pressure associated with term renewal, a decision which is dependent on a number of state actors. The amendment providing a one fix term shall safeguard against the Director General making undue decision on the premises of expecting favourable renewal considerations, which can likely compromise the effectiveness of the Centre.

c) The amendment shall also align with the National Assembly enactment of the *Anti-Money Laundering and Combating of Terrorism Laws (Amendment) Act, 2023* which caused an amendment to *Sec. 2(b)* of the *State Corporation Act, (Cap 446)* by adding the FRC to the list of Agencies exempted from being a State Corporation. The import of the amendment is that it excluded FRC from the jurisdiction of State Corporation Advisory Committee (SCAC) and any other oversight framework provided under *Cap. 446*. *By dint of the said amendment, the National Assembly further reinforced the autonomy and independence of the Centre.*

Whereas Cap. 446 has provided for the State Corporation CEO's term limits to a maximum of 4 years, the National Assembly has enacted or amended establishing statute of some State Corporations to provide for longer CEO's term limits i.e. *Witness Protection Act, 2006 (5 years) and Kenya Roads Board Act, 1999 (5 years)*, both renewable terms.

d) The amendment shall also align with *FATF* standards and best practice on the autonomy and independence of Heads of Financial Intelligence Units.

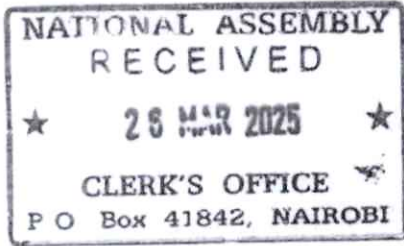
The National Assembly is requested to:

Support the amendments aimed at securing compliance with FATF standards and fortifying the LSK's role as a Self-Regulating Body.

Yours faithfully,



Faith Odhiambo
President Law Society of Kenya.



DDG
26/03/25

**COMMENTS ON THE ANTI-MONEY LAUNDERING AND
COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT)
BILL, 2025**

NAME OF ENTITY/PERSON: TRANSPARENCY INTERNATIONAL KENYA



DATE: 25TH MARCH 2025

PART A: GENERAL COMMENTS

The proposed amendments reflect a progressive approach aimed at enhancing compliance measures and strengthening the regulatory framework for the supervisory and oversight bodies established under the various Acts.

However, while the Bill introduces stricter compliance measures and enhancing regulatory scope of these bodies, the enforcement of these roles remains a critical challenge, and the Amendment bill lacks an enforcement mechanism. To ensure effectiveness, strong political will, sufficient resource allocation and clear operational guidelines for these agencies are essential.

The Bill, in its entirety, raises further issues that need to be considered;

1. Beneficial Ownership: The Bill lacks clarity on the issue of beneficial ownership, especially the creation of a publicly accessible, frequently updated register. There is need for a centralized beneficial ownership register with clear consequences for non-compliance.
2. Cross-border Financial Crimes: the provisions on tackling cross-border financial crimes are limited and need to be incorporated to effectively address these crimes.
3. Risk assessments: The bill needs also ensure that risk assessments are made mandatory for all institutions and conducted by the respective supervisory/oversight bodies.
4. The mandate given to the PBO Regulatory authority needs to be reviewed and, as a supervisory body, PBORA needs to put in place measures to prevent the government from potentially victimizing civil society organizations that are registered under the PBO Act.

PART B: COMMENTS ON THE DRAFT PROVISIONS

No.	Clause	Comment/Proposal	Rationale/Justification
	<u>CAP 59A</u> <u>Section 134</u>	Delete the option of paying a fine in the penalties and lengthen the years of imprisonment in the case of a natural person.	A fine of up to ten million shillings for natural persons may



	<p>Inserting the following new subsection immediately after subsection (2)—</p> <p>(3) Any Regulations made under this section may provide, in respect of any contravention thereof or non-compliance therewith, for the imposition of a sanction including—</p> <p>(a) in the case of a natural person, imprisonment for a term not exceeding seven years or a fine not exceeding ten million shillings or both;</p> <p>(b) in the case of a body corporate, a fine not exceeding twenty million shillings.</p>		<p>seem insignificant compared to the illicit profits made, leading offenders to treat it as a "cost of doing business." This diminishes the intended impact of the penalty and fails to address the severity of the crime.</p>
	<p>CAP 59B Section 5A</p> <p>Insert the following new subsection immediately after subsection (1) —</p> <p>(2) A person who commits an offence under subsection (1) shall be liable, upon conviction, to imprisonment for a term not exceeding twenty years in the case of a natural person or a fine not exceeding twenty million shillings in the case of a legal person .</p>	<p>The penalties provided for corporate/legal persons are weak. They need to be enhanced and made more stringent, for instance, revocation of licences for offenders.</p>	<p>There are weak penalties for legal persons/ corporate entities found to have violated the law. The fine allocated for corporate persons of a maximum of Kshs .20M is a drop in the ocean for multinational companies (MNC) as they have financial muscles. Heads of MNCs need to be held accountable, as the case where CEO of Samsung was imprisoned and warrant of arrest issued on Adani.</p>



<p>Public Benefits Organizations Act, 2013 (No. 18 of 2013)</p> <p>Section 43A</p> <p>43A. (1) The Authority shall have powers to oversight organizations and monitor public benefit organizations and in particular—</p> <p>(a) periodically identify organizations that are likely to be at risk of terrorist financing abuse;</p> <p>(b) periodically conduct assessment of the terrorism financing risks posed to such public benefit organizations;</p> <p>(c) develop focused, proportionate and risk-based actions to address terrorism financing risks identified in paragraph (b);</p> <p>(d) ensure that the measures developed in paragraph (c) do not undermine the legitimate operations of public benefit organizations.</p> <p>(2) The Authority shall ensure effective cooperation on public benefit organizations at risk of terrorism financing with Financial Reporting Centre and relevant law enforcement authorities.</p> <p>(3) The Authority shall have the power to issue</p>	<p>Public Benefits Organizations Act, 2013 (No. 18 of 2013) should be amended to outline clear compliance guidelines for PBOs on terrorism financing to complement the proposed amendments under Section 43A of the instant proposed bill.</p>	<p>There is inadequate clarity on Public Benefit Organizations' (PBOs) Obligations. While the bill empowers the Public Benefits Regulatory Authority to oversee organizations at risk of terrorism financing, it does not specify due diligence requirements for PBOs.</p>
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	<p>Regulations issue guidelines, directions, rules or instructions for the public benefit organizations that have been identified to be at risk</p> <p>(4) Authority may impose monetary, civil or administrative sanctions for violations under the Act.</p>		
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CONTACT INFORMATION:

Sheila Masinde
Executive Director
Transparency International Kenya
Bishop Magua Building, Ground Floor,
Wing B UG 7, George Padmore Lane, Off Ngong Rd,
P.O. Box 198-00200, Nairobi
Tel: +254 (0) 202 727 763/5 Mobile: +254 (0) 722 296 589
Or Email transparency@tikenya.org



**COMMENTS ON THE ANTI-MONEY LAUNDERING AND
COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT)
BILL, 2025**

NAME OF ENTITY/PERSON: TRANSPARENCY INTERNATIONAL KENYA

DATE: 25TH MARCH 2025

PART A: GENERAL COMMENTS

Transparency International Kenya is a not-for-profit organization with the aim of developing a transparent and corruption-free society through good governance and social justice initiatives. TI-Kenya is one of the autonomous chapters of the global Transparency International movement that is bound by a common vision of a corruption-free world.

TI-Kenya works towards a transparent and corruption-free society. The organization has over 20 years' experience in governance work at the national and county levels. TI-Kenya pursues advocacy, partnerships development, strategic litigation, research, capacity building, and civic engagement as its core approaches. TI-Kenya contributes to development of effective legal, policy, and legislative frameworks as well as the promotion of national values that support transparency and accountability. It is on this background that TI-Kenya submits this memorandum.

The proposed amendments reflect a progressive approach aimed at enhancing compliance measures and strengthening the regulatory framework for the supervisory and oversight bodies established under the various Acts.

However, while the Bill introduces stricter compliance measures and enhancing regulatory scope of these bodies, the enforcement of these roles remains a critical challenge, and the Amendment bill lacks an enforcement mechanism. To ensure effectiveness, strong political will, sufficient resource allocation and clear operational guidelines for these agencies are essential.

The Bill, in its entirety, raises further issues that need to be considered;

1. Beneficial Ownership: The Bill lacks clarity on the issue of beneficial ownership, especially the creation of a publicly accessible, frequently updated register. There is need for a centralized beneficial ownership register with clear consequences for non-compliance.
2. Cross-border Financial Crimes: the provisions on tackling cross-border financial crimes are limited and need to be incorporated to effectively address these crimes.
3. Risk assessments: The bill needs also ensure that risk assessments are made mandatory for all institutions and conducted by the respective supervisory/oversight bodies.
4. The mandate given to the PBO Regulatory authority needs to be reviewed and, as a supervisory body, PBORA needs to put in place measures to prevent the government

from potentially victimizing civil society organizations that are registered under the PBO Act.

PART B: COMMENTS ON THE DRAFT PROVISIONS

No.	Clause	Comment/Proposal	Rationale/ Justification
<u>1</u>	<p><u>CAP 59A</u> <u>Section 134</u></p> <p>Inserting the following new subsection immediately after subsection (2)—</p> <p>(3) Any Regulations made under this section may provide, in respect of any contravention thereof or non-compliance therewith, for the imposition of a sanction including—</p> <p>(a) in the case of a natural person, imprisonment for a term not exceeding seven years or a fine not exceeding ten million shillings or both;</p> <p>(b) in the case of a body corporate, a fine not exceeding twenty million shillings.</p>	<p>Delete the option of paying a fine in the penalties and lengthen the years of imprisonment in the case of a natural person.</p>	<p>A fine of up to ten million shillings for natural persons may seem insignificant compared to the illicit profits made, leading offenders to treat it as a "cost of doing business." This diminishes the intended impact of the penalty and fails to address the severity of the crime.</p>
<u>2</u>	<p><u>CAP 59B</u> <u>Section 5A</u></p> <p>Insert the following new subsection immediately after subsection (1) —</p> <p>(2) A person who commits an offence under subsection</p>	<p>The penalties provided for corporate/legal persons are weak. They need to be enhanced and made more stringent, for instance, revocation of licences for offenders.</p>	<p>There are weak penalties for legal persons/ corporate entities found to have violated the law. The fine allocated for corporate persons of a maximum of</p>

	<p>(1) shall be liable, upon conviction, to imprisonment for a term not exceeding twenty years in the case of a natural person or a fine not exceeding twenty million shillings in the case of a legal person .</p>		<p>Kshs .20M is a drop in the ocean for multinational companies (MNC) as they have financial muscles. Heads of MNCs need to be held accountable, as the case where CEO of Samsung was imprisoned and warrant of arrest issued on Adani.</p>
<p>3</p>	<p>Public Benefits Organizations Act, 2013 (No. 18 of 2013)</p> <p>Section 43A</p> <p>43A. (1) The Authority shall have powers to oversight organizations and monitor public benefit organizations and in particular—</p> <p>(a) periodically identify organizations that are likely to be at risk of terrorist financing abuse;</p> <p>(b) periodically conduct assessment of the terrorism financing risks posed to such public benefit organizations;</p> <p>(c) develop focused, proportionate and risk-based actions to address</p>	<p>Public Benefits Organizations Act, 2013 (No. 18 of 2013) should be amended to outline clear compliance guidelines for PBOs on terrorism financing to complement the proposed amendments under Section 43A of the instant proposed bill.</p>	<p>There is inadequate clarity on Public Benefit Organizations' (PBOs) Obligations. While the bill empowers the Public Benefits Regulatory Authority to oversee organizations at risk of terrorism financing, it does not specify due diligence requirements for PBOs.</p>



Institute of Certified Public Accountants of Kenya
CPA Centre, 9th Floor, Ruaraka, Thika Road
P.O Box 59963 - 00200, Nairobi Kenya
+254 719 074 000 | +254 733 856 262
icpak@icpak.com | www.icpak.com

Our Ref: ICPAK/CE-PPR/03/2025

25th March 2025

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
Parliament Buildings
P.O Box 41842-00100
NAIROBI

DOC
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28/03

Dear Mr. Njoroge,

RE: ICPAK SUBMISSION ON THE ANTI-MONEY LAUNDERING & COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL 2025

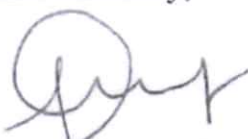
The Institute of Certified Public Accountants of Kenya (ICPAK) is the statutory body of Accountants established in 1978 and draws its mandate from the Accountants Act No.15 of 2008. It is also a member of the Pan African Federation of Accountants (PAFA) and the International Federation of Accountants (IFAC), the global Accountancy umbrella body.

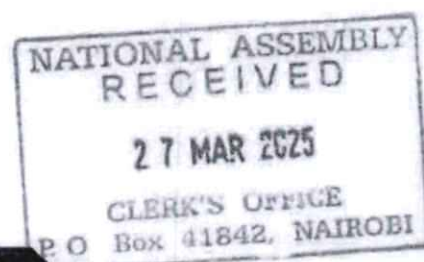
Following your advertisement dated 11th March 2025 seeking comments on the Anti-Money Laundering & Combating of Terrorism Financing Laws (Amendment) Bill 2025, the Institute developed a set of submissions for your consideration. Attached herein, please find a copy of the Institute's submission.

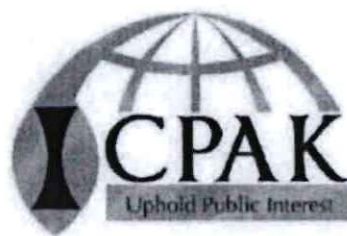
In case of need for clarification, please do not hesitate to contact the undersigned on ceo@icpak.com.

Thank you in advance for your kind consideration and continued support.

Yours Sincerely,


CPA Dr. Grace Kamau
Chief Executive Officer & Secretary to Council





The Institute of Certified Public Accountants of Kenya

SUBMISSION

ON

THE ANTI-MONEY LAUNDERING & COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL 2025.

March 2025

THE ANTI-MONEY LAUNDERING & COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025.

INTRODUCTION

The Institute of Certified Public Accountants of Kenya (ICPAK) is a statutory body of accountants established under the Accountants Act of 1978, and as repealed under the Accountants Act Number 15 of 2008, mandated to develop and regulate the Accountancy Profession in Kenya. It is also a member of the International Federation of Accountants (IFAC), the global umbrella body for the accountancy profession and Pan Africa Federation of Accountants (PAFA), the continental body of Accountants.

The Anti-Money Laundering & Combating of Terrorism Financing Laws (Amendment) Bill, 2025, aims to address technical compliance gaps within the existing legal framework. The proposed amendments are intended to enhance Kenya's alignment with international standards, particularly through the re-rating and review processes led by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) and the Financial Action Task Force (FATF).

The Bill seeks to strengthen regulatory bodies established under various Acts of Parliament to effectively oversee and supervise entities involved in combating money laundering, terrorism financing, and proliferation financing. Notably, the Accountants Act (Cap 531) comes into play, with the Institute of Certified Public Accountants of Kenya (ICPAK) playing a crucial role in ensuring compliance within the accounting profession.

In line with its mandate and commitment to promoting accountability and integrity within the financial sector, the Institute has actively engaged with this legislative framework by providing submissions aimed at enhancing the efficiency and comprehensiveness of the proposed amendments. These submissions seek to ensure that the Act's implementation aligns with best practices and adequately addresses the emerging risks associated with money laundering, terrorist financing, and proliferation financing.

THE ANTI-MONEY LAUNDERING & COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025.

A. PROPOSED AMENDMENTS TO THE ACCOUNTANTS ACT

The Bill proposes amendments to the Accountants Act (Cap 531) as follows:

#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
1.	<p>Clause 8A</p> <p>Pursuant to sections 2A, 36A, 36B and 36C of the proceeds of Crime and Anti-Money Laundering Act, the Institute shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Institute and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.</p> <p>Section 36A (6): <i>A supervisory body shall submit to the Centre, within such period and in such manner, as the Centre may prescribe, a written report on any action taken against any reporting institution in terms of this Act or any order, determination, directive,</i></p>	<p>The requirement for the Institute to report to the Financial Reporting Centre (FRC) under Sections 36A (6) and Section 24A (3) of the Proceeds of Crime and Anti-Money Laundering Act raises the following concerns:</p> <p>i. The obligation for a supervisory body to submit a written report to the Financial Reporting Centre (FRC), on any action taken against a reporting institution, as outlined in Section 36A (6) of the Proceeds of Crime and Anti-Money Laundering Act, raises concerns regarding the supervisory authority of the Institute.</p> <p>While the Centre's oversight role is acknowledged, the stipulation that the</p>	<p>The development of a clear and comprehensive Memorandum of Understanding (MoU) between ICPAK and the Financial Reporting Centre (FRC), as envisioned under Section 36A (7) of the Proceeds of Crime and Anti-Money Laundering Act, is essential to enhance coordination and cooperation between the two entities.</p> <p>The Institute requires the following to be considered in the MoU, which shall include but not be limited to:</p> <p>(a) The respective roles and responsibilities of the Centre and supervisory bodies in</p>	<p>The MoU will enhance coordination and cooperation by clearly defining roles, responsibilities, and mechanisms for information sharing, dispute resolution, and reporting.</p>

THE ANTI-MONEY LAUNDERING & COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025.

#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
	<p><i>instruction, or rule made under this Act.</i></p> <p>Section 24A (3) provides that, <i>The Center may, where it deems appropriate, delegate powers to a supervisory body to issue instructions, directions, guidelines or rules regarding the application of this Act to reporting institutions regulated or supervised by the supervisory body: Provided that a supervisory body shall consult the Centre prior to issuing any instructions, directions, guidelines or rules under this section.</i></p>	<p>supervisory body must submit reports <i>“within such period and in such manner as the Centre may prescribe”</i> appears to grant the Financial Reporting Centre (FRC) considerable control over the reporting process. (FRC should wait for the investigation to come into conclusion so that full reports can be provided) This could undermine the Institute’s authority as a supervisory body, especially when conducting investigations or taking enforcement actions against reporting institutions.</p> <p>ii. Additionally, Section 24A (3), which permits the Financial Reporting Centre to delegate powers to a supervisory body to issue instructions, directions, guidelines, or rules, subject to prior consultation with the Centre, grants the Financial Reporting Centre</p>	<p>regulating and supervising reporting institutions;</p> <p>(b) Mechanisms for sharing information, coordinating supervisory activities, and ensuring consistency in the enforcement of this Act;</p> <p>(c) Procedures for resolving disputes or inconsistencies that may arise between the Centre and supervisory bodies in the performance of their respective functions; and</p> <p>(d) Regular reporting and review mechanisms to assess the effectiveness of coordination between the Centre and supervisory bodies.</p>	

THE ANTI-MONEY LAUNDERING & COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025.

#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Impact	Likely
		<p>(FRC) excessive control over its regulatory functions. This suggests that ICPAK's regulatory authority is conditional upon approval from the Centre. This dependency could result in delays, unnecessary bureaucracy, and limitations on the Institute's capacity to respond swiftly to emerging issues within the sector. This arrangement may impair ICPAK's ability to independently regulate the reporting institutions and enforce compliance effectively.</p> <p>iii. The mandate under Section 36A (6), which obligates a supervisory body to submit written reports to the Financial Reporting Centre (FRC) during the process of determining whether a person is fit and proper to hold office in a reporting institution, as outlined in Section 36A (5)(e), raises concerns about potential</p>			

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#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
		<p>delays and interference. Imposing reporting obligations while investigations or assessments are ongoing could disrupt the process, undermine the effectiveness of the investigation, and compromise the quality of determinations made. While the consultation process with the FRC is valuable for promoting alignment and consistency, it should not impede ICPAK's ability to promptly issue guidelines or carry out its supervisory mandate effectively.</p>		
2.	<p>Clause 8B (2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable – (a) in case of a legal person, to a penalty not exceeding five million shillings; (b) in case of a natural person, to a penalty not</p>	<p>The proposed penalties for non-compliance are excessively punitive, especially for smaller entities that may not have the same resources or capacity to implement complex AML/CFT measures as larger financial institutions.</p>	<p>The penalties should be scaled in proportion to the size and resources of the entity. For smaller entities, a more flexible, remedial approach such as warnings, guidance, or opportunities for training should be</p>	<p>A proportional approach to penalties will ensure that smaller organizations are not unduly burdened, while still promoting compliance with AML/CFT regulations. This would foster a more</p>

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#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
	exceeding one million shillings; and to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violence or noncompliance continues.		considered as part of a tiered penalty system.	cooperative environment where smaller businesses are encouraged to comply through guidance and capacity-building rather than punitive measures alone.

B. Proposals to The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) in relation to the Institute as a supervisory body and regulatory institutions:

#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
3.	The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) Section 9 Misrepresentation <i>A person who knowingly makes a false, fictitious or fraudulent statement or representation, or makes, or provides, any false document, knowing the same to contain any false, fictitious or fraudulent statement or entry, to a reporting institution, or to a</i>	The absence of penalty provisions weakens the regulatory framework's effectiveness, as individuals or entities may disregard the provisions without fear of repercussions.	Insert a new subsection 9 (i) to read: Any person who contravenes the provisions of section 9, shall be liable, on conviction, to a fine not exceeding three million shillings or imprisonment for a term not exceeding three years, or to both.	The proposed insertion of penalty provisions aims to strengthen the enforcement mechanism of the Act by introducing clear and enforceable consequences for non-compliance.

THE ANTI-MONEY LAUNDERING & COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL 2025.

#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
	<p><i>supervisory body or to the Centre, commits an offence.</i></p> <p>Section 10.</p> <p>Malicious Reporting</p> <p><i>Any person who willfully gives any information to the Centre or an authorised officer knowing such information to be false commits an offence.</i></p>		<p>Insert a new subsection 10 (i) to read:</p> <p>Any person who contravenes the provisions of section 10, shall be liable, on conviction, to a fine not exceeding three million shillings or to imprisonment for a term not exceeding three years, or to both.</p>	
4.	<p>The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) Section 13</p> <p>2)The information collected on natural persons under this sanction shall be dealt according to the data principles set out in the Data Protection Act, 2019.</p>	<p>The proposed amendments should carefully balance the need for robust financial surveillance with respect for individual privacy rights, particularly in the context of sensitive financial information.</p>	<p>Provisions related to the protection of personal data, particularly sensitive financial information, should be explicitly detailed.</p>	<p>To ensure that the AML/CTF measures comply with national data protection laws.</p>
5.	<p>The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) Section 24</p>	<p>The Bill empowers the Financial Reporting Centre with broad discretion in investigating suspicious transactions, which could</p>	<p>Clear checks and balances should be established to ensure that the FRC's powers are</p>	<p>Ensuring proper oversight of the FRC will maintain public trust and confidence in the AML/CFT</p>

THE ANTI-MONEY LAUNDERING & COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025.

#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
	<p>The Centre—</p> <p>(a) shall receive, analyze and interpret—</p> <p>(i) reports of usual or suspicious transactions made by reporting institutions pursuant to section.</p>	<p>potentially lead to an overreach in its powers and a lack of oversight.</p>	<p>exercised transparently and fairly. Oversight mechanisms such as a review panel or regular audits of the FRC's actions could be implemented to prevent overreach.</p>	<p>system while protecting individuals and businesses from undue scrutiny or violation of privacy rights. This approach will foster a balanced regulatory environment.</p>
6.	<p>The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) Section 36A (4):</p> <p><i>Any law which regulates a supervisory body or authorises that supervisory body to supervise or regulate any reporting institution to whom the provisions of this Act apply, shall take account of subsection (2), and a supervisory body may utilise any fees or charges it is authorised to impose or collect to defray expenditure incurred in performing its obligations under this Act or any order, determination or directive made in terms of this Act.</i></p>	<p>The provision allows a supervisory body to use fees or charges it imposes or collects to cover expenses incurred while performing its obligations under the Act. However, there is a lack of clarity and accountability on:</p> <ol style="list-style-type: none"> 1. Oversight mechanisms: There is no mention of oversight or auditing to ensure that funds are used appropriately for the intended purposes. 2. How fees or charges are determined: The provision doesn't 	<p>Insert a new subsection 4 (a), (b) and (c) to read:</p> <p>An annual report detailing the collection and expenditure of such fees or charges shall be prepared and submitted to the relevant authority for review and auditing</p> <p>(b) The utilization of such fees or charges shall be audited periodically by an independent body to promote</p>	<p>Clear guidelines and oversight mechanisms will prevent misuse of resources and ensure that fees or charges are determined and utilized in a fair, reasonable, and accountable manner.</p>

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#	Clause / Area	Issue of Concern	Recommendation	Rationale / Likely Impact
		<p>specify whether there are guidelines or criteria for setting fees or charges, which could result in unreasonable or arbitrary charges.</p> <p>3. Transparency and accountability in expenditure: The provision does not require supervisory bodies to report or account for how the collected fesses are spent. This could lead to misuse or inefficient use of resources.</p>	<p>accountability and efficiency</p> <p>(c) Reports prepared subject to subsection (b) shall be made accessible to the public</p>	
7.	<p>The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) Section 44</p> <p>(1) A reporting institution shall monitor on an ongoing basis all complex, unusual, suspicious, large or such other transactions as may be specified in the regulations, whether completed or</p>	<p>The clause proposes to extend the reporting obligations of financial institutions to cover a broader range of transactions, including those related to low-risk countries or entities. While this aims to improve surveillance, it could</p>	<p>A more balanced approach should be adopted, where financial institutions are required to report only transactions that meet a defined risk threshold. The</p>	<p>This approach will minimize the administrative burden on financial institutions while ensuring that high-risk transactions are still subject to scrutiny. It will also</p>

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#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
	not, and shall pay attention to all unusual patterns of transactions, and to insignificant but periodic patterns of transactions which have no apparent economic or lawful purpose as stipulated in the regulations.	lead to an unnecessary administrative burden on financial institutions, particularly for low-risk transactions	Bill should differentiate reporting requirements based on risk assessments, rather than blanket reporting for all transactions.	encourage better resource allocation and improve the effectiveness of AML/CFT efforts by focusing on higher-risk areas.
8.	The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) Section 45 Section 45 A (1) A reporting institution shall apply enhanced customer due diligence on business relationships and transactions with any natural and legal persons, legal arrangements or financial institutions originating from countries identified as posing a higher risk of money laundering, terrorism financing or proliferation by—	It is commendable that the Bill seeks to enhance due diligence requirements for financial institutions. However, there should be a stronger emphasis on the need for a more detailed risk-based approach that can better identify high-risk customers, especially in high-risk sectors such as cryptocurrency and offshore finance.	The Bill could include clearer guidance on the types of enhanced due diligence measures that should be adopted, particularly in relation to politically exposed persons (PEPs) and non-resident clients.	To improve the identification of high-risk customers, especially in sectors like cryptocurrency and offshore finance. Clearer guidelines on enhanced due diligence, particularly for PEPs and non-resident clients, would boost AML compliance and reduce vulnerabilities to financial crimes.

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#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
9.	<p>The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)</p> <p>Section 45 A (1) A reporting institution shall apply enhanced customer due diligence on business relationships and transactions with any natural and legal persons, legal arrangements or financial institutions originating from countries identified as posing a higher risk of money laundering, terrorism financing or proliferation by—</p> <p>(a) the Financial Action Task Force (FATF) as having strategic money laundering and combating financing of terrorism deficiencies, that have not made sufficient progress in addressing the said deficiencies or have not committed to an action plan to address the deficiencies; or</p> <p>(b) the Cabinet Secretary as having ongoing substantial money laundering and terrorism financing risks.</p>	<p>The current draft Bill requires enhanced due diligence for all Politically Exposed Persons (PEPs), including foreign PEPs with no connection to the country. This could create difficulties for businesses that do not have access to international databases or resources to verify foreign PEPs.</p> <p>The need for international cooperation in combating terrorism financing and money laundering is well-documented in the Bill. However, there is a gap in defining the exact role of the country's financial institutions in facilitating cross-border information sharing with foreign law enforcement agencies.</p>	<p>The Bill should provide guidelines on how financial institutions can access and verify foreign PEPs, including the possibility of leveraging international platforms for verification or collaborating with local regulators in the home countries of foreign PEPs.</p> <p>Specific clauses that outline the mechanisms for mutual legal assistance and sharing of intelligence between countries should be incorporated, as well as a framework for financial institutions to collaborate with</p>	<p>Clear guidelines on verifying foreign PEPs will ease the compliance burden on financial institutions, improve the effectiveness of due diligence, and enhance international cooperation in fighting financial crimes.</p> <p>To enhance global cooperation, improve intelligence exchange, and strengthen compliance with international AML standards.</p>

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#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
			international regulatory bodies.	
10.	The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) Section 48 Application of reporting obligations	Non-financial entities, such as real estate companies, lawyers, and accountants, have become significant players in money laundering activities. However, their obligations under the proposed amendments could be strengthened.	Non-financial entities, such as real estate companies, lawyers, and accountants, have become significant players in money laundering activities. However, their obligations under the proposed amendments could be strengthened.	Strengthening obligations for non-financial entities like real estate firms, lawyers, and accountants would enhance transparency, accountability, and AML compliance, reducing their misuse for illicit activities.

C. OTHER PROPOSALS FOR CONSIDERATION:

#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
11.	The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) Clause s.36D (3) The Centre, a supervisory body or the self-regulatory body shall review the assessment of the money	The use of the term " <i>periodically</i> " does not establish clear timelines for conducting assessments.	Rephrase Clause 36(D) (3) and provide a new subsection (2) to read; (1) The Centre, a supervisory body or the self-regulatory body shall review the assessment of the money laundering,	Establishing quarterly reviews ensures regular and systematic assessments, providing clear timelines for identifying emerging risks. Additionally, publishing reports promotes transparency, enhances public confidence, and

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#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
	laundering, terrorist financing and proliferation financing risk profile of a reporting institution or group including the risks of non-compliance periodically and when there are major events or developments in the management and operations of the reporting institution or groups.		terrorist financing and proliferation financing risk profile of a reporting institution or group including the risks of non-compliance on a semi-annual basis each year and when there are major events or developments in the management and operations of the reporting institution or groups. (2) The Financial Reporting Centre shall compile the findings of these assessments into a quarterly report, which shall be published on its website before the next review is conducted.	strengthens accountability in the oversight process.
12.	The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) Clauses s.48 Insert the following new paragraph immediately after paragraph (b)-	Reporting obligations of professionals in private practice or public sector.	There's need to include a section to guarantee job security or private safety for such individuals.	Money laundering and terrorism financing are highly lucrative enterprises globally, and combating them necessitates assurance from the state regarding the protection of life and job security for individuals who blow the whistle or report

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#	Clause / Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
	(c) dealers in precious metals and dealers in precious stone when they engage in any cash transaction with a customer equal to or above fifteen thousand US Dollars.			such activities in both the public and private sectors.
13.	<p>The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)</p> <p>Clause s.53</p> <p>Delete the marginal note and substitute with therefore the following new marginal note- The Agency and Agency Director-General</p>	<p>Appointment of Agency Director General under section 53(2).</p> <p>The section establishes an Asset Recovery Agency as an independent body corporate with perpetual succession -</p> <p>Sub- Section 2 gives the Attorney General power to appoint a Director General upon recommendation by the Agency Advisory Board.</p> <p>This provision should be deleted, and the authority to appoint the Director General should be vested</p>	Deletion of Clause s.53.	Being the accounting officer of the board, his/her appointment should not be left to one member of the advisory board or have any external hand but be left to the advisory board as a whole for independency. The Attorney General being a member of the board together with other members should be part of the decision collectively but not have leeway alone.

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#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
		in the advisory board.		
14.	<p>The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) Section 53 (3) For a person to be appointed as the Agency Director, that person shall— (a) hold a degree in law, finance, accounting or any other relevant degree from a university recognized in Kenya; (b) have at least fifteen years work experience, of which at least five shall be in senior management; (c) meet such other requirements that may be specified by the Advisory Board.</p> <p>Clause s.53(3) Delete the words “Agency Director” and substitute therefore the words “Agency Director General.</p>	Qualification of Director General	<p>Delete the words “law” “or any other relevant” in section 53(3)(a) and rephrase it to read</p> <p>a) Hold as degree in finance or accounting from a university recognized in Kenya</p> <p>Delete Section 53(3)(c) and replace with the following words; b) A member in good standing, registered with a body that regulates the accounting profession in Kenya.</p>	To ensure the job is filled by only suitable candidates with degrees in relevant fields of training are appointed and holders of degrees that are not relevant for the job To safeguard the integrity of the hiring process by ensuring the ambiguity is removed where the board may come up with its own criteria to appoint a person of their own interest.
15.	<p>The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)</p>	Secondment of staff to the Agency	Delete the words “Attorney General” and replace with the words “Public Service Commission”	The Public Service Commission has a well-resourced and an elaborate procedure and internal

THE ANTI-MONEY LAUNDERING & COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025.

#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
	<p>Section 53 (4): (4) The Agency Director may, with the approval of the Attorney-General, obtain such number of staff on secondment and on terms and conditions of service as may be approved by the Attorney-General, and may make such arrangements for the provision of services, as he considers appropriate for or in connection with the exercise of his functions.</p> <p>Clause s.53(4) Delete the words "Agency Director" and substitute therefore the words "Agency Director-General."</p>			<p>processes in staff recruitment, training and development and thus its best placed to handle staff matter and help the Agency in development of its human capital.</p>
16.	<p>The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)</p> <p>Section 71: Seizure of property subject to restraint order (1) In order to prevent any realizable property from being disposed of or removed contrary to a restraint order, a police officer may seize that property if he has reasonable</p>	<p>Power of a police officer to seize property.</p>	<p>The section should be amended to allow police officers to seek such seizure power from the court.</p>	<p>To prevent the misuse of power by officers in arbitrarily seizing property, the authority to sanction such seizures should be vested in the courts.</p>

THE ANTI-MONEY LAUNDERING & COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025.

#	Clause/Area	Issue of Concern	Recommendation	Rationale/ Likely Impact
	<p>grounds to believe that the property will be so disposed of or removed.</p> <p>(2) Property seized under subsection (1) shall be dealt with in accordance with the directions of the court that made the relevant restraint order.</p> <p>Clause s.71 Insert the words "Agency Director-General or an investigator of the Agency" immediately after the words "police officer"</p>			
17.	<p>Prevention of Terrorism Act (Cap 59B)</p> <p>Clause s.40E (2) (a)</p> <p>(aa) propose persons to the relevant Sanctions Committee.</p>	<p>Without clear criteria, proposals made to the relevant Sanctions Committee may be influenced by subjective considerations, undermining the credibility of the process.</p>	<p>Rephrase clause 40E (2) (a) to read;</p> <p>Propose persons to the relevant Sanctions Committee based on credible evidence and objective criteria, such proposals shall not be influenced by personal interest, political considerations, or any form of bias.</p>	<p>This approach enhances confidence in the work of the Committee, reduces the risk of abuse of power, and ensures that sanctions proposals are justifiable and credible.</p>

General Recommendations

1. **Establishment of a Monitoring and Evaluation Framework:** Introduce mechanisms for continuous assessment and review of the framework to ensure its effectiveness and responsiveness to emerging threats.
2. **Capacity Building and Awareness:** Continuously conduct awareness campaigns to educate stakeholders, particularly those in high-risk sectors, about their obligations under the amended law.
3. **Safeguarding Professional Independence:** Ensure that the Bill's provisions do not compromise the independence of professionals, as they fulfill their duties within the regulatory framework.
4. **Proportionality of Penalties:** Ensure that penalties for non-compliance are fair, proportionate, and aimed at promoting adherence rather than imposing excessive burdens on entities.
5. **Public Awareness and Education:** The Bill's public awareness efforts are vital for AML compliance but overlook educating small businesses and non-financial sectors on reporting suspicious transactions. A targeted campaign or training for SMEs would enhance effectiveness.
6. **Technological Advancements:** The Bill lacks sufficient regulation of decentralized systems like cryptocurrencies, which pose money laundering risks. Stronger rules, including registering cryptocurrency exchanges and clear guidelines for digital wallets, are needed for AML compliance.

Conclusion

To strengthen the Institute's role as a supervisory body while maintaining effective collaboration with the Financial Reporting Centre (FRC), a well-defined Memorandum of Understanding (MoU) is crucial. The concerns arising from Sections 36A (6) and 24A (3) highlight the need for a balanced regulatory framework that upholds ICPAK's authority while ensuring compliance with anti-money laundering and counter-terrorism financing obligations.

By setting clear guidelines on reporting obligations, consultation procedures, and supervisory independence, the outlined responsibilities will help reduce bureaucratic inefficiencies, prevent unnecessary delays, and strengthen regulatory enforcement. Additionally, establishing structured frameworks for information sharing, dispute resolution, and coordinated

THE ANTI-MONEY LAUNDERING & COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL 2025.

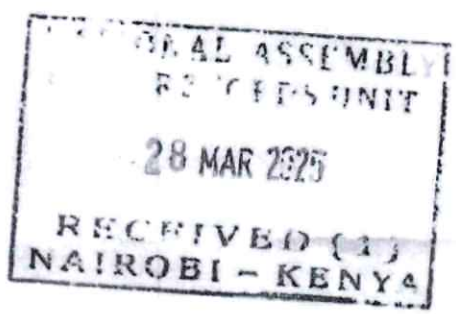
supervision will allow both entities to effectively fulfill their mandates while maintaining the integrity of enforcement actions and investigative processes.

A well-structured MoU will ensure that ICPAK can operate with autonomy in supervising reporting institutions while fostering a cooperative relationship with the Financial Reporting Centre (FRC) to enhance financial oversight and compliance.



**MEMORANDUM TO THE NATIONAL ASSEMBLY
SUBMITTED BY THE ESTATE AGENTS NETWORK GROUP (EANG)
ON THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING
LAWS (AMENDMENT) BILL, 2025**

To:
The Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI, KENYA
Email: cna@parliament.go.ke



From:
Wambui Anne Gaitha
Chairperson
Estate Agents Network Group (EANG)
Email: estateagentsassociationofkenya@gmail.com | Phone: +254 715 258 324

Date: 26 March 2025

Subject: Recommendations on Strengthening AML-CFT Compliance in Kenya's Real Estate Sector

1. INTRODUCTION

The Estate Agents Network Group (EANG) welcomes the opportunity to submit this memorandum in response to the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025. Representing registered real estate professionals across Kenya, EANG is committed to promoting ethical standards, transparency, and robust compliance within our sector. We recognize that real estate transactions, due to their high value and frequent use of cash, present significant risks for money laundering and terrorism financing.

2. BACKGROUND & KEY CONCERNS

The current real estate environment in Kenya exhibits several vulnerabilities:

- a) **Low Registration Rates:** With only about 10% of estate agents registered, a vast majority operate without formal oversight, creating opportunities for illicit transactions.
- b) **Digital and MLS Oversight Gaps:** Unregulated Multiple Listing Services (MLS) and online property platforms enable unlicensed agents to conduct transactions without proper KYC checks.
- c) **Fragmented Enforcement:** Disjointed regulatory and enforcement efforts lead to gaps in monitoring and reporting suspicious transactions.
- d) **High-Risk Transaction Practices:** The prevalent use of large cash payments and the absence of centralized oversight contribute to increased money laundering risks.
- e) **International and Cross-Border Challenges:** UN bodies, multilateral and bilateral organizations, multinationals and diplomatic corps sometimes procure real estate services from unregistered agents. Additionally, foreign nationals offering or procuring real estate services—especially through social media channels like Facebook—create regulatory challenges and heighten the risk of illicit financial flows.

3. KEY RECOMMENDATIONS

A) Mandatory Registration & Regulation of Real Estate Transactions

1. Agent Licensing:

Require that only licensed and registered estate agents—verified through the Estate Agents Registration Board (EARB)—conduct real estate transactions. Financial institutions must reject transactions facilitated by unlicensed agents.

2. Business Registration & DNFBP Status:

Require all real estate businesses (companies, partnerships, sole proprietorships, etc.) to register as Designated Non-Financial Businesses and Professions (DNFBPs) with the Financial Reporting Centre (FRC). The Company Registrar must ensure that only registered estate agents can register these entities at the point of registration or during annual returns filing, with a 6-month grace period for compliance, similar to the Beneficial Ownership Information rollout.

3. Transaction Monitoring:

Develop a centralized real estate transaction monitoring system that integrates data from KRA, FRC, and other agencies for real-time oversight.

B) Regulation of Multiple Listing Services (MLS) & Digital Platforms

1. Licensing and Verification:

- Require that all MLS platforms and online property listing websites to be registered by the Communications Authority of Kenya and subject to regular compliance checks. Ensure that only listings from verified, licensed estate agents are permitted.

2. Digital Oversight:

- Empower the Communications Authority of Kenya (CAK) to monitor digital property listings and enforce mandatory KYC for online users.

3. Enhanced Reporting:

- Require that high-value property listings and transactions on digital platforms be automatically flagged and reported to the FRC.

C) Strengthening Agent Compliance & Training

1. Mandatory Training & Certification:

- Institute a compulsory AML-CFT training program for all estate agents in collaboration with the FRC and EARB.

D) Enhanced Inter-Agency Collaboration & Information Sharing

1. Real Estate AML-CFT Compliance Taskforce:

- Establish a taskforce comprising representatives from FRC, EARB, KRA, CAK, county governments, real estate agents and legal professionals to coordinate enforcement actions and share intelligence via a centralized database.

2. Public Reporting Mechanisms:

- Create a public hotline and an online reporting platform to encourage reporting of suspicious transactions and unregistered practices.

3. Regular Coordination Meetings:

- Schedule periodic inter-agency meetings to review compliance data and adjust strategies as needed.

E) Additional Mandatory Regulatory Measures

1. Business Entity Registration:

- Only registered estate agents shall be permitted to register companies, partnerships, or sole proprietorships related to real estate. The Company Registrar must enforce this at registration or during annual returns, with a 6-month grace period for compliance.

2. **Trade Licenses & Permits:**

- County Governments must not issue trade licenses or permits to unregistered estate agents or those lacking a valid practicing certificate.

3. **Tax Compliance:**

- For commission-based transactions, property-related taxes shall not be processed unless the EARB number of the facilitating agent is provided and verified.

4. **Legal & Developer Obligations:**

- Lawyers are prohibited from disbursing commissions to unregistered estate agents. Developers must ensure that they engage only registered estate agents when disposing of property. All developers should register with the FRC and, at the point of registration, submit their financial statements to assist in monitoring unexplained large cash transactions.

5. **Prohibition on Facilitating Benefits to Unregistered Estate Agents:**

- No entity within the real estate transaction chain—including but not limited to lawyers, banks, financial institutions, and other financial intermediaries—shall process, facilitate, or indirectly benefit from any transaction involving unregistered or unlicensed estate agents. Specifically:
 - a) **Lawyers:** They shall not disburse commissions to, authenticate, or endorse any agreements, mandates, or “authorities to sell” that involve unregistered estate agents.
 - b) **Banks and Financial Institutions:** They are forbidden from executing or processing any payments or financial transactions on behalf of, or to, unregistered or unlicensed estate agents.
 - c) **General Prohibition:** Any act of processing, facilitating, or indirectly benefiting transactions that support the operations of unregistered agents shall be deemed as “aiding and abetting” such activity. Any violation of this prohibition will be subject to both administrative and criminal sanctions as prescribed by law.

F) **International and Cross-Border Oversight**

1. **Vetting for International Clients:**

- UN bodies, multilateral and bilateral organizations, and diplomatic corps must procure real estate services solely from registered and licensed estate agents. These organizations should establish due diligence processes to verify the EARB registration of service providers before engagement.

2. **Regulation of Foreign Engagement via Social Media:**

- Strengthen oversight of real estate services offered by foreign nationals on social media platforms (e.g., Facebook) by requiring mandatory verification of agent credentials and EARB numbers prior to listing or engaging in transactions.

3. **Cross-Border Transaction Monitoring:**

- Collaborate with international regulatory bodies to monitor cross-border real estate transactions and enforce compliance standards for agents operating within and outside Kenya.

4. **CONCLUSION**

EANG firmly supports the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025, and urges Parliament to incorporate the comprehensive recommendations detailed above. By enforcing stringent registration, enhancing digital and inter-agency oversight, and addressing both domestic and international engagement with unregistered estate agents, Kenya's real estate sector can be transformed into a robust defense against financial crime. We remain committed to engaging with all stakeholders to refine these measures and secure a transparent, compliant, and professional real estate market.

5. **CONTACT INFORMATION**

Estate Agents Network Group (EANG)

Wambui Anne Gaitha

Email: estateagentsassociationofkenya@gmail.com

Phone: +254 715 258 324

Signature: 

Wambui Anne Gaitha

Chairperson



OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Telegraphic address: "Personnel", Nairobi
Telephone: Nairobi 2732090/2732240
Mobile: 0787880580
Fax: 2243524/2251808
Email: info@odpp.go.ke
When Replying please quote

ODPP Building, Ragati Road
P.O. BOX 30701 - 00100
NAIROBI,
KENYA

Ref. No: ODPP/CONF/1/46A

Date: 1st April, 2025

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
Main Parliament Buildings
P.O. Box 41842-00100
NAIROBI

Dear *Njoroge*,

**RE: INVITATION BY THE DEPARTMENTAL COMMITTEE ON
JUSTICE AND LEGAL AFFAIRS TO SUBMIT VIEWS ON THE
ANTI-MONEY LAUNDERING AND COMBATING OF
TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025
(NATIONAL ASSEMBLY BILL NO. 5 OF 2025)**

Reference is made to the above and your letter Ref: NA/DDC/JLAC/2025/014 dated 26th March, 2025.

The departmental committee on Justice and Legal Affairs invited the Office of the Director of Public Prosecutions (ODPP) to submit views on the Anti-money laundering and combating of terrorism financing laws (Amendment) Bill 2025 (National Assembly Bill No. 5 of 2025).

On behalf of the ODPP, I hereby forward the recommendations to the proposed bill as follows;


Act	Section	Amendment	Comment
POCAMLA, 2009	Section 49		DPP proposes that he should be a member of the AML Board as the office is a key stakeholder
	First Schedule Paragraph (g)	Delete paragraph (g).	DPP proposes that the Public Benefit Organizations Regulatory Authority (PBORA) to be included as supervisory body in place of Non-Governmental Organizations Co-ordination Board

POTA, Cap 59B	Section 5A	Inclusion of penal provision	The amendment is very fundamental to successful prosecution of POTA offences
	Section 29	Deleting the element of 'member of a terrorist group or'	The amendment is very fundamental to successful prosecution of POTA offences
	Section 30	Deleting the element of 'held on behalf of a person'	The amendment is very fundamental to successful prosecution of POTA offences
	Section 30H(1)	Deleting expression '14A	Section 14A does not exist in the Act
	Section 36A(1); 36A(3)	Adding "Terrorism Financing"	Key in successful deterrence, investigations and prosecutions

Submitted for your consideration.

I take this opportunity to thank you for your unwavering support and cooperation.

Yours



RENSON M. INGONGA, CBS, OGW
DIRECTOR OF PUBLIC PROSECUTIONS



**EXECUTIVE OFFICE OF THE PRESIDENT
BETTING CONTROL AND LICENSING BOARD
ACK GARDEN ANNEX, 1ST NGONG AVENUE 7TH FLOOR**

Telephone: 0111021400
Email : info@bclb.go.ke

P. O. Box 43977 00100
NAIROBI.

BCLB 7/28 VOL.II (83)

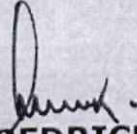
2nd April, 2025

Clerk of the National Assembly
Main Parliament Building
Harambee Avenue
NAIROBI
(Attn: Jeremiah W. Ndombi, MBS)

**RE: INVITATION BY THE DEPARTMENTAL COMMITTEE ON JUSTICE AND
LEGAL AFFAIRS TO SUBMIT VIEWS ON THE ANTI-MONEY
LAUNDERING AND COMBATING OF TERRORISM FINANACING LAWS
(AMENDMENT) BILL, 2025 (NATIONAL ASSEMBLY BILL, NO.5 OF
2025)**

We acknowledge receipt of your letter **REF: NA/DDC/JLAC/2025/014**
dated **26th March, 2025** on the above-mentioned subject.

The Betting Control and Licensing Board notes that its proposals have already
been incorporated in the Bill and therefore does not wish to make further
comments on the proposed amendments to the Betting Lotteries and Gaming
act, Cap 131 in regards to the current Bill.


FREDRICK M. MBASI
FOR: DIRECTOR

PRESENTATION TO THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS OF THE NATIONAL ASSEMBLY ON THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 5 OF 2025)

SUBMISSIONS BY THE FINANCIAL REPORTING CENTRE

The Chair of the Justice & Legal Affairs Committee (JLAC), Hon George Murugara, Member of Parliament for Tharaka Constituency.

The Vice Chair, Hon Mwengi Mutuse, Member of Parliament for Kibwezi West Constituency.

Honourable Members of the JLAC Committee, Good Morning;

1.1 Hon. Members, the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 is a comprehensive review of the various laws relating to Anti-Money Laundering and the Combatting of Terrorism Financing (10 laws are being amended). The Bill seeks to address the technical compliance deficiencies identified by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), the Financial Action Task Force (FATF) as well as other remaining issues in the Kenya's AML/CFT/CPF regime. The last of such reforms were undertaken in 2023 where seventeen (17) pieces of legislation were amended through the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2023.

A. BACKGROUND

1.2 Members, as you may be aware, Kenya was subjected to a Mutual Evaluation (ME) process in 2021 by virtue of its membership to the Eastern and Southern Africa Anti-Money Laundering Group

(ESAAMLG). The evaluation was a peer review assessment aimed at assessing Kenya's compliance with global Anti-Money Laundering, Counter-Financing of Terrorism and Counter-Financing of Proliferation of Weapons of Mass Destruction (AML/CFT/CPF) standards. In terms of Technical Compliance, the country was rated;

- Compliant (C) with **2 Recommendations**;
- Largely Compliant (LC) with **1 Recommendation**;
- Partially Compliant (PC) with **26 Recommendations** and,
- Non-Compliant (NC) with **11 Recommendations**.

1.3 Subsequently Kenya has progressively amended its laws with the latest being the 2023 amendment through the Anti-Money Laundering and Combatting of Terrorism Financing Laws (Amendment) Act, 2023 which amended 17 pieces of legislation. The Key highlights was the inclusion of lawyer into the AML/CFT reporting framework whereby the Law Society of Kenya was given the mandate to supervise the profession for AML/CFT purposes.

1.4 Following the amendments, Kenya applied to ESAAMLG for the re-rating of 30 recommendations (on two separate occasions, 15 recommendations each) for its Technical Compliance leading to review of the Recommendations and as at today, Kenya's rating has changed to:

- Complaint (C) with **19 Recommendations**
- Largely Compliant (LC) with **9 Recommendations**
- Partially Compliant (PC) with **10 Recommendations**
- Not Compliant (NC) with **2 Recommendations**

(Remaining technical deficiencies include 2 NC, NPOs and VASPs and other 10 in which Kenya has PC)

- 1.5 Additionally, Kenya has been subjected to the International Co-operation Review Group (ICRG) of the FATF as a result of its Mutual Evaluation (ME) results. The FATF's ICRG continually identifies and reviews jurisdictions with strategic AML/CFT deficiencies that present a risk to the international financial system and closely monitors their progress.
- 1.6 **Hon. Members**, the ICRG process requires Kenya to report to the FATF at its plenary meetings (three times a year in February, June, and October) on the progress made by the country in implementing core priority areas identified by the FATF. Kenya was initially placed under a one-year ICRG Observation Period which lapsed in September 2023.
- 1.7 During this period, the country was expected to address deficiencies in its MER before possible public identification and formal review by the FATF. After the review period, of its AML/CFT regime. Kenya was found to be having strategic deficiencies in terms of Technical Compliance as well as the effectiveness of its AML/CFT regime. This meant that that the country was to be placed in the FATF Public Statement on High-Risk Jurisdictions and be subject to the International Cooperative Review Group (ICRG) Process.
- 1.8 Hon members, on the 23rd February 2024, the Financial Action Task Force (FATF) placed Kenya amongst the jurisdictions under increased monitoring (FATF Grey List). Accordingly, the country is required to address the strategic deficiencies that were identified in Kenya's Action Plan within the FATF set timelines. Some of the actions in Kenya's Action Plan with the FATF require addressing deficiencies in Kenya's legal framework hence the reason for the Bill before Hon. Members today.

- 1.9 There are moderate and major shortcomings in relation to:
- powers of Designated Non-Financial Businesses and Professions (DNFBPs) Supervisors to supervise entities under their regulatory regime;
 - regulation of Trusts for AML/CFT purposes;
 - regulation of Virtual Assets and Virtual Assets Service Providers for AML/CFT purposes;
 - regulation of Non-Profit Organizations (NPOs) oversight to protect them from abuse for Terrorism Financing.

B. LEGISLATIVE REFORMS PROPOSED IN KENYA'S ACTION PLAN

- 1.10 Some of the legal reforms recommended by FATF in Kenya's Action plan include:
- a) Improving Non-Banking Financial Institutions and Designated Non-Financial Business and Professions (DNFBPs) powers to conduct AML/CFT risk based supervision and inspections of reporting institutions under their purviews, including powers to sanction for AML/CFT violations. *(The Bill seeks to empower Non-Banking Financial institutions – The Retirement Benefits Authority and Sacco Society Regulatory Authority) as well the DNFBP Regulators with powers to supervise and to sanction non-compliance with AML/CFT requirements.*
 - b) Revising the framework for NPO regulation and oversight, informed by the results of the NPO TF risk assessment, to ensure that applicable measures are focused and proportionate, and do not disrupt or discourage legitimate NPO activity. (FATF has revised Recommendation 8 on Non Profit Organisations NPOs). *The Bill seeks to revise the framework for NPO Regulation as demonstrated and justified in the annexed matrix.*

- c) Adopting a legal framework for the licencing and supervision of Virtual Assets and Virtual Assets Service Providers (VA & VASPs) *(Standalone Bill – Separate and ongoing)*.
- d) Addressing the remaining technical deficiencies in the legal and institutional framework to implement Targeted Financial Sanctions (TFS) related to financing of terrorism. (Rec. 6). *(Addressed Separately by amending POTA Regulations)*.
- e) Addressing the remaining technical deficiencies in the legal and institutional framework to implement Targeted Financial Sanctions related to financing of proliferation of weapons of mass destruction. (Rec 7). *(Addressed Separately by amending POTA Regulations)*.
- f) Adopting a regulator for legal arrangements including collecting and making available to LEAs adequate, accurate and up-to-date BO information in a timely manner. This should include the establishment of an appropriate sanctions regime. *(The proposed Trust Bill spearheaded by the Business Registration Service will address this)*.

C. PROPOSED AMENDMENTS

- 1.11 The Bill proposes amendments to ten (10) Acts of Parliament, all touching on the following subjects:

Supervision and Enforcement *(Bestowing the AML/CFT supervisory and sanctioning powers to DNFBP Regulators)*

- 1.12 Respective laws of DNFBP Regulators and some Non-Bank Financial sector regulators, namely, **Retirement Benefits Authority Act** and the **Sacco Societies Act** are amended to enhance the entities powers of

AML/CFT supervisory authorities to supervise, monitor and conduct AML/CFT oversight of reporting institutions, to undertake risk based supervision and conduct fit and proper tests for all reporting institutions, issue guidelines and impose sanctions and also to conduct AML/CFT/CPF inspections. *Similar amendments have been made to the Accountants Act, (for accountants) Mining Act (for dealers in precious metals and precious stones), Estate Agents Act (for real estate agents), Betting Lotteries and Gaming Act (for casinos) and the Certified Public Secretaries of Kenya Act (for Trust and Company Service Providers).*

Revising the Framework for NPO Regulation and Oversight

- 1.13 POCAMLA is amended to remove NPOs as reporting institutions for AML/CFT to comply with the FATF standards. Additionally, the NGO Board, now the Public Benefit Organizations Regulatory Authority (PBORA) is proposed to be removed from the schedule of POCAMLA as a supervisory entity. To meet the FATF Standards the PBO Act is to be amended to give PBORA powers to regulate and oversight the NPOs that are at risk for Terrorism Financing. The PBORA is required to conduct periodic risk assessments to identify the category of NPOs falling within fall within the FATF definition of non-profit organisations (NPOs) and to assess their terrorist financing risks and thereafter to apply targeted and focused measure to this category of NPOs.

Combating Terrorism Financing

- 1.14 To provide for the definition of the offence of terrorism financing and to provide for the penalty for the offence of financing of travel of individuals for supporting terrorism.

Targeted Financial Sanctions

- 1.15 Anchoring the requirement for Financial Institutions and DNFBPs to implement Targeted Financial Sanctions for Terrorism Financing and Proliferation Financing including powers to administer administrative sanctions for breaches of obligations.

Renaming the Director of ARA to Agency Director General

- 1.16 Other amendments incorporated in the Bill includes the amendment of POCAMLA to rename the Director of Assets Recovery Agency as the Agency Director General.

D. CONCLUSION

- 1.17 Honourable members, the FATF International Cooperation Review Group (ICRG) process has strict timelines and failure to adhere to the same has consequences. For example, the VASPs law was required to be in full force and effect by May 2025. However, Kenya was required to submit the same by 7th March 2025 for it to be considered by the Joint Group and be adopted by the FATF plenary.
- 1.18 The Trust Bill for example was supposed to be in full force and effect early enough for Kenya to be able to demonstrate its implementation. Kenya is supposed to demonstrate effective implementation of the trust legal regime, including by applying sanctions to trusts that fail to comply with basic and beneficial ownership information. Therefore, where the country is required to pass a law on trusts and demonstrate its implementation, a delay on the passage of the law means failing to meet the timelines. Equally, the Bill before Hon. Members has a ripple effect on some other FATF actions.

1.19 **Honourable Members**, the amendments sought are required for other action items to start implementation and any further delay would affect Kenya's timely exit from the FATF grey list.

1.20 Thank you very much for your time **Honourable Members**.

**THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025
(NATIONAL ASSEMBLY BILL, NO. 5 OF 2025)**

NO	SECTIONS OF THE BILL	SPECIFIC CLAUSES	PROPOSED AMENDMENT	JUSTIFICATION
The Proceeds of Crime and Anti Money laundering Act, 2009 (POCAMLA)				
1.	Interpretation	S.2	Insert the word "General" immediately after the word "Director" in the definition of the words "Agency Director"	<p>The Bill seeks to amend the Proceeds of Crime and Anti-Money Laundering Act by adopting the title Director General (DG), the head of the Asset Recovery Agency, to align with other investigative agencies in the Country.</p> <p>The word agency is used to distinguish the DG – of Asset Recovery Agency (ARA) and that one of the Financial Reporting Centre (FRC) created in the same Act.</p>
2.	Interpretation	S.2	In the definition of "designated non-financial businesses or professions" — (a) delete the words "dealing in" appearing in paragraph (c) and substitute therefor the words "dealers in";	To remove the ambiguity created and to ensure that the Act targets "the dealers" and not "those dealing with".
3.	Interpretation	S.2	b) delete the words "dealing in" appearing in paragraph (d) and substitute therefor the words "dealers in";	To remove the ambiguity created and to ensure that the Act targets "the dealers" and not "those dealing with".
4.	Interpretation	S.2	by deleting paragraph (f).	<p>To remove the Non-Governmental Organizations (NGOs) (Now Public benefit Organizations PBOs) from the category of Designated Non-Benefit Organizations (DNFBPs)</p> <p>This is meant to align Kenya's AML/CFT legal framework with the FATF Standards by</p>

				removing NGOs/PBOs from the ambit of POCAMLA specifically the requirement for AML supervision the requirement for reporting Suspicious Transactions to the FRC.
5.	Interpretation	S.2	<p>Insert the following new definitions in proper alphabetical sequence— "dealer in precious stones or metals" includes a person engaged in—</p> <ul style="list-style-type: none"> a) the production of precious metals, precious stones or mining operations; b) intermediate buying and brokering of precious stones and precious metals; c) the cutting, polishing and refining of precious stones and precious metals; d) the manufacturing of jewellery; e) the retail selling of precious stones and precious metals. 	To provide clarity on the persons/entities the Act is targeting for purposes of compliance with the FATF standards.
6.	Failure to comply with the Provision of the Act	S. 11	<p>Delete subsection (1) and substitute therefor the following new subsection—</p> <p>(1) A reporting institution that fails to comply with any requirements of sections 44, 45, 46, 47 and 47A or of any regulations, commits an offence.</p>	To include the provisions of sections "47 and 47A" amongst the mandatory obligations to be complied with so as to cover the implications brought about by subsequent amendments to the Act
7.	Power to issue instructions	24AA	The Centre may issue guidelines, directions or rules for combating anti-money laundering, combating terrorism financing and countering proliferation financing purposes.	This is a proposed new provision to empower the FRC to issue directions or guidelines for AML/CFT/CPF purposes. As an AML/CFT regulator, it is necessary to explicitly empower the FRC to be able to issue guidelines for AML/CFT/CPF purposes.

8.	Powers of the Centre to impose civil penalties for non-compliance	S. 24 B (1)	s.24B (1) Insert the words "the requirements of this Act," immediately after the words "comply with".	To cure the drafting error to ensure that the powers to impose civil penalties by the FRC results from non-compliance with the Act and not only on rules, instructions and directions issued by FRC
9.	Powers of supervisory bodies	S. 36 C (f)	s.36C (f) Insert the words "where applicable" immediately before the word "to undertake".	To remove the requirement of consolidated supervision where it might not apply to other entities it is proposed that the words "where applicable" are introduced.
10.	Risk based approach	S. 36D	s. 36D Deleting subsection (1) and substituting therefor the following new subsection— (1) The Centre, supervisory bodies and the self-regulatory body shall, in fulfilling their obligations to effectively monitor reporting institutions, use a risk-based approach. Delete subsection (2) and substitute therefor the following new subsection— (2) The Centre, supervisory bodies and the self-regulatory body shall, in applying a risk-based approach to supervision, ensure that they—	Introducing the obligation of using a risk-based approach also on the self-regulatory body (The Law Society of Kenya (LSK))
11.	Risk based approach	S. 36 D (2)c	s. 6D(2)(c) Delete subparagraph (i) and substitute therefor the following new subparagraph— (i) the money laundering, terrorist financing and proliferation financing risks, and the policies internal controls and procedures associated with the business activities of a reporting institution, as identified by the	Introducing the obligation of a risk-based approach to the self-regulatory body (LSK)

			Centre's, supervisory body's or self-regulatory body's assessment of its risk profile;	
12.	Risk based approach		Delete subparagraph (ii) and substitute therefor the following new subparagraph— (ii) the risks of money laundering, terrorist financing and proliferation financing in the country as identified within any information that is made available to the Centre, a supervisory body or the self-regulatory body; and	Correcting the typo as well introducing the self-regulatory body
13.	Risk based approach	S.36 D	s. 36D Delete subsection (3) and substitute therefor the following new subsection— (3) The Centre, a supervisory body or the self-regulatory body shall review the assessment of the money laundering, terrorist financing and proliferation financing risk profile of a reporting institution or group including the risks of non-compliance periodically, and when there are major events or developments in the management and operations of the reporting institution or group.	Adding the obligation on the Self-Regulatory body which is currently missing
14.	Application of reporting obligations	S.48	s.48 Insert the following new paragraph immediately after paragraph (b)— (c) dealers in precious metals and dealers in precious stone when they engage in any cash transaction with a customer equal to or above fifteen thousand US Dollars	The provisions seek to limit the reporting obligation for dealers in precious stone when they engage in any cash transaction with a customer equal to or above fifteen thousand US Dollars. The proposal seeks to align Kenya's legislative framework with FATF standards by providing a threshold thereby removing reporting institutions dealing with small amounts and to be in line with FATF standards.

15.		S. 53- 107(1)	Delete the marginal note and substitute therefor the following new marginal note— The Agency and Agency Director-General s.53(2) Delete the words "Agency Director" and substitute therefor the words "Agency Director- General".	The Bill seeks to amend the Proceeds of Crime and Anti-Money Laundering Act by adopting the title "Director General" as the head of the Asset Recovery Agency, to align with other investigative agencies in the Country
16.	Search warrants for location of documents relevant to locating property	S.107 (5)	s. 107(5) Insert the words "Agency Director-General or an investigator of the Agency" immediately after the words "police officer", wherever it appears.	Assets Recovery Agency to provide a justification
17.	Hearing of the Court to be open to public	S. 124 (3)	s.124(3) Delete the words "Attorney-General" and substitute therefor the words "Agency Director-General".	Assets Recovery Agency to provide a justification
18.	Regulations	S. 134	s.134 Inserting the following new subsection immediately after subsection (2)— (3) Any Regulations made under this section may provide, in respect of any contravention thereof or non-compliance therewith, for the imposition of a sanction including— a) in the case of a natural person, imprisonment for a term not exceeding seven years or a fine not exceeding ten million shillings, or to both; and b) in the case of a body corporate, a fine not exceeding twenty million shillings.	To provide a guide on the penalties that can be impose by regulations under the Act
19.	Schedules	1st Schedule	First Schedule Delete paragraph (g)	To remove the NGO Coordination Board (Now the Public Benefits Organizations Regulatory Authority's role on AML). FATF does not

				envisage the supervision of NPOs for Anti-Money laundering purposes'
Prevention of Terrorism Act, 2012 (Cap 59B)				
20.	Interpretation	S. 2	<p>Insert the following new definitions in proper alphabetical sequence—</p> <p>"Sanctions Committee" means a committee of the Security Council of the United Nations established under a Resolution of the Security Council;</p>	To define the Sanction Committee and to differentiate it with the Inter- Ministerial Committee as established under Section 40E of the Prevention of Terrorists Act (POTA).
21.	Interpretation	S. 2	"terrorism financing" includes an offence under section 5 and 5A of the Act.	<p>The Bill proposes to amend the Prevention of Terrorism Act to expand the definition of "terrorism financing to include the offences stipulated under sections 5 and 5A of the Act.</p> <p>Section 5A was brought by the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2023 and relates to financing of travel for terrorism purposes.</p>
22.	Financing of travel offence	S. 5A	<p>s. 5A Renumber the existing provision as subsection (1).</p> <p>Insert the following new subsection immediately after subsection (1)—</p> <p>(2) A person who commits an offence under subsection (1) shall be liable, upon conviction, to imprisonment for a term not exceeding twenty years in the case of a natural person or a fine not exceeding twenty million shillings in the case of a legal person.</p>	To provide for the penalty for the offence. The offence was created by the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2023 but no penalty was provided.

23.	Collection of Information (Offences)	S. 29	Delete the words "who is a member of a terrorist group or".	To remove the ambiguity in the offence to the effect that, for a person to be guilty of the offence, the person ought to be a member of a terrorist group. It should be understood that a person who commits such an offence needs not be a member of a terrorist organization (i.e. the proposed amendment seeks to remove the requirement to prove membership to a terrorist organization).
24.	Possession of an article connected with an offence under the Act	S. 30	s.30 Delete the words "held on behalf of a person".	To remove the ambiguity or confusion on the interpretation that ' <i>held on behalf</i> ' has been interpreted to add an element which would require providing evidence that the person in possession of the articles was holding it on behalf of someone else and yet the aim is to criminalize the mere possession of articles associated with terrorism.
25.	Penalties for Legal persons	S. 30H	s.30H (1) Delete the expression "14A".	To remove a wrong cross-referencing
26.	Interception of communication by the national Security organs	S. 36A	s.36A (1) Insert the words "and terrorism financing" immediately after the word "terrorism".	The section provides power of interception of communication for purposes of detecting, deterring and disrupting terrorism. The amendment seeks to enjoin "terrorism financing"
27.	Interception of communication by the national Security organs	S. 36A (3)	s.36A (3) Insert the words "and terrorism financing" immediately after the word "terrorism".	To section provides power of interception of communication for purposes of detecting, deterring and disrupting terrorism. The amendment seeks to enjoin "terrorism financing".
28.	Functions of the Committee	S.40E (2)	s.40E (2) Insert the following new paragraph immediately after paragraph (a)–	The amendment seeks to include the mandate of proposing a person for designation under the

			(aa) propose persons to the relevant Sanctions Committee;	United Nations Security Council Resolution 1267. As it currently stands the Committee only has powers to identify but lacks the power to propose.
29.	Role of the Financial Reporting Centre and Supervisory Bodies	S. 42A	<p>Delete and substitute therefor with the following section—</p> <p>42A. (1) The Financial Reporting Centre, supervisory bodies and self-regulatory Body shall have the power to—</p> <p>(a) supervise and enforce the application of preventative measures to combat the financing of terrorism and combat the financing of proliferation acts by reporting institutions;</p> <p>(b) supervise and enforce the implementation of Targeted financial sanctions by reporting institutions.</p> <p>(2) For the purpose of this section—</p> <p>(a) "preventative measures" include measures under PART IV of the Proceeds of Crime and Anti-Money laundering Act;</p> <p>(b) "supervisory body" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act;</p> <p>(c) "self-regulatory body" has the meaning assigned to it under section 2 of the Proceed of Crime and Anti-Money Laundering Act;</p> <p>(d) "targeted financial sanctions" means both assets</p>	<p>i. To create a link in the Act for for FRC, SRB and supervisory bodies to have a basis for supervision and enforcement of preventative measures to combat the financing of terrorism and proliferation acts.</p> <p>ii. To include Self-Regulating Body (LSK) to have similar powers after their inclusion to supervise the legal profession.</p> <p>iii. To introduce the powers on the implementation of targeted financial sanctions by FRC, supervisory bodies and the LSK</p> <p>iv. To provide clarity on the definition of key terms such as the "Self-Regulatory Body" and "Targeted Financial Sanctions".</p>

			freezing and prohibitions to prevent funds or other assets from being made available directly or indirectly for the benefit of designated persons and entities.	
30.	Powers to make rules	S.50	<p>s.50 Delete subsection (4) and substitute therefor the following new subsection— (4) Any Regulations made under this section may provide, in respect of any contravention thereof or non-compliance therewith, for the imposition of a sanction including—</p> <p>(a) in the case of a natural person, imprisonment for a term not exceeding ten years; and</p> <p>(b) in the case of a legal person, a fine not exceeding twenty million shillings</p>	<p>To give a limit of sanctions in the parent Act so as the regulations developed under the Act have a basis</p> <p>To remove the requirement that the regulations be laid before Parliament as it is superfluous.</p>
Betting Lotteries and Gaming Act, (Cap 131)				
31.	Interpretation	S.2	<p>Insert the following new definition in proper alphabetical sequence—</p> <p>"terrorism financing" has the meaning assigned to it under the Prevention of Terrorism Act.</p>	<p>To provide for the definition of "terrorism financing". The mandate has been given to the Board to supervise entities under its purview for AML/CFT/CPF.</p>
32.	Powers of Authority for anti-money laundering and countering the financing of terrorism purposes.	29A	<p>Insert the following new sections immediately after section 29—</p> <p>Powers of the Board for anti-money laundering and countering the financing of terrorism purposes.</p> <p>29A. (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti- Money Laundering Act, the Board shall regulate, supervise and enforce compliance for anti- money laundering,</p>	<p>The Bill seeks to review the constitutive law to give the Board supervisory powers for AML/CFT purposes and also to provide for powers to achieve the same. (FATF has restricted the supervision to casinos)</p>

			<p>combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Board and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.</p> <p>(2) In undertaking its mandate under subsection (1), the Board may—</p> <ul style="list-style-type: none"> a) vet proposed significant shareholders, proposed beneficial owners, proposed directors, and senior employees of a reporting institution; b) conduct onsite inspection; c) conduct offsite surveillance; d) undertake consolidated supervision of a reporting institution; e) compel the production of any document or information the Board may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act; f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes; g) issue regulations, guidelines, directions, rules or instructions for anti- money laundering, 	
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			<p>combating the financing of terrorism and countering proliferation financing purposes;</p> <p>h) co-operate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and</p> <p>i) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act and any regulations, guidelines, rules, instruction or direction made or issued thereunder.</p> <p>(3) For purposes of this section, "reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act</p>	
33.	Penalties for violations relating to Money laundering and Terrorism Financing	S. 29B	<p>29B. (1) No director, officer, employer, agent or any other person in the company shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes.</p> <p>(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—</p> <p>a) in case of a legal person, to a penalty not exceeding five million shillings;</p>	

			<p>b) in the case of a natural person, to a penalty not exceeding one million shillings; and</p> <p>c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.</p>	
The Retirement Benefits Act (Cap 197)				
34.	Interpretation	S. 2	<p>Insert the following new definition in proper alphabetical sequence—</p> <p>"terrorism financing" has the meaning assigned to it under the Prevention of Terrorism Act.</p>	To provide for the definition of "terrorism financing". The mandate has been given to the Authority to supervise entities under its purview for AML/CFT/CPF.
35.	Powers of Authority for anti-money laundering and countering the financing of terrorism purposes.	S. 7A	<p>New</p> <p>Insert the following new sections immediately after section 7—</p> <p>Powers of anti-money laundering and countering the financing of terrorism purposes.</p> <p>7A. (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, the Authority shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Authority and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.</p>	The Bill seeks to review the constitutive law to give the Authority supervisory powers for AML/CFT and also to provide for powers to achieve the same.

			<p>(2) In undertaking its mandate under subsection (1), the Authority may—</p> <ul style="list-style-type: none"> a) vet proposed significant shareholders, proposed beneficial owners, proposed directors and senior officers of a reporting institution; b) conduct onsite inspection; c) conduct offsite surveillance; d) undertake consolidated supervision of an institution and its group; e) compel the production of any document or information the Authority may require f) for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act; g) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes; h) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; i) co-operate and share information for anti-money laundering, combating the financing of 	
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			<p>terrorism and countering proliferation financing purposes; and</p> <p>j) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds</p> <p>(3) For purposes of this section, "reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti- Money Laundering Act.</p>	
36.	Penalties for violations relating to Money laundering and Terrorism Financing	7B	<p>7B. (1) No director, officer, employer, agent or any other person in the company shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes.</p> <p>(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—</p> <p>a) in case of a legal person, to a penalty not exceeding five million shillings;</p> <p>b) in the case of a natural person, to a penalty not exceeding one million shillings; and</p> <p>c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non- compliance continues.</p>	To empower the institute to be able to sanction entities supervised for violations relating to Money laundering and Terrorism Financing. Additionally to comply with the FATF standards requiring that the sanctions applied are effective, dissuasive and proportionate.
The Mining Act, (Cap 306)				

37.	Interpretation	Sec 2	<p>Insert the following new definition in proper alphabetical sequence—</p> <p>"terrorism financing" has the meaning assigned to under the Prevention of Terrorism Act.</p>	<p>To provide for the definition of terrorism financing. The mandate has been given to the Director of mines to supervise entities under its purview for AML/CFT/CPF.</p>
38.	Powers of Authority for anti-money laundering and countering the financing of terrorism purposes.	S. 16A	<p>Insert the following new sections immediately after section 16—</p> <p>Powers of the Director for anti- money laundering and countering g the financing of terrorism purposes.</p> <p>16A. (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti- Money Laundering Act, the Director of Mines shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Director of Mines and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.</p> <p>(2) In undertaking its mandate under subsection (1), the Director of Mines may—</p> <ul style="list-style-type: none"> a) vet proposed mineral rights holders and mineral dealers of a reporting institution; b) conduct onsite inspection; c) conduct offsite surveillance; 	<p>The Bill seeks to review the constitutive law to give the Director of Mines supervisory powers for AML/CFT and also to provide for powers to achieve the same.</p>

			<p>d) undertake consolidated supervision of mineral rights holders and mineral dealers</p> <p>e) compel the production of any document or information the Director may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act;</p> <p>f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes;</p> <p>g) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;</p> <p>h) co-operate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and</p> <p>i) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of crime and Anti-Money Laundering Act and any regulations, guidelines, rules, instruction or direction made or issued thereunder.</p> <p>(3) For purposes of this section, "reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering</p>	
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39.	Penalties for violations relating to Money laundering and Terrorism Financing	S. 16 B	<p>16B. (1) No mineral rights holders or mineral dealers or their agents shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes.</p> <p>(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—</p> <ul style="list-style-type: none"> a) in case of a legal person, to a penalty not exceeding five million shillings; b) in the case of a natural person, to a penalty not exceeding one million shillings; and c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues. 	To empower the Director of Mines to be able to sanction entities supervised for violations relating to Money laundering and Terrorism Financing. Additionally, to comply with the FATF standards requiring that the sanctions applied are effective, dissuasive and proportionate.
SACCO Societies Act Cap 490B				
40.	Interpretation	S. 2	<p>Insert the following new definition in proper alphabetical sequence— "terrorism financing" has the meaning assigned to under the Prevention of Terrorism Act.</p>	To provide for the definition of terrorism financing. The mandate has been given to the Society to supervise entities under its purview for AML/CFT/CPF.
41.	Powers of Authority for anti-money laundering and countering the financing of terrorism purposes.	S. 7A	<p>Insert the following new sections immediately after section 7—</p> <p>Powers of Authority for anti-money laundering and countering the financing of terrorism purposes.</p>	The Bill seeks to review the constitutive law to give the Institute supervisory powers for AML/CFT and also to provide for powers to achieve the same.

			<p>7A. (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, the Authority shall regulate, supervise and enforce compliance for anti- money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Authority and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.</p> <p>(2) In undertaking its mandate under subsection (1), the Authority may—</p> <ul style="list-style-type: none"> a) vet proposed significant shareholders, proposed beneficial owners, proposed directors and senior officers of a reporting institution; b) conduct onsite inspection; c) Conduct offsite surveillance; d) Undertake consolidated supervision of an institution and its group; e) compel the production of any document or information the Authority may require for the purpose of discharging its supervisory mandate under the Proceeds of crime and Anti-Money Laundering Act; f) impose monetary, civil or administrative sanctions for violations related to anti- money laundering, combating the financing of 	
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			<p>terrorism or countering proliferation financing purposes;</p> <p>g) issue regulations, guidelines, directions, rules or instructions for anti- money laundering, combating the financing of terrorism and countering proliferation financing purposes;</p> <p>h) co-operate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and</p> <p>i) Take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act and any regulations, guidelines, rules, instruction or direction made or issued thereunder</p> <p>(3) For purposes of this section, "reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti- Money Laundering Act</p>	
42.	Penalties for violations relating to Money laundering and Terrorism Financing	S.7B	7B. (1) No member, director, officer, employer, agent or any other person in a Sacco society shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of	To empower the Society to be able to sanction entities supervised for violations relating to Money laundering and Terrorism Financing. Additionally to comply with the FATF standards requiring that the sanctions applied are effective, dissuasive and proportionate.

			<p>terrorism and countering proliferation financing purposes.</p> <p>(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—</p> <p>a) in case of a legal person, to a penalty not exceeding five million shillings;</p> <p>b) in the case of a natural person, to a penalty not exceeding one million shillings; and</p> <p>c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues</p>	
Accountants Act (Cap 531)				
43.	Interpretation	S.2	<p>Insert the following new definition in proper alphabetical sequence—</p> <p>"terrorism financing" has the meaning assigned to it under the Prevention of Terrorism Act.</p>	To provide for the definition of terrorism financing. The mandate has been given to the Institute to supervise entities under its purview for AML/CFT/CPF.
44.	Powers of Authority for anti-money laundering and countering the financing of terrorism purposes.	S. 8A	<p>Powers of Authority for anti-money laundering and countering the financing of terrorism purposes.</p> <p>7A. (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, the Institute shall regulate, supervise and enforce</p>	The Bill seeks to review the constitutive law to give the Institute supervisory powers for AML/CFT and also to provide for powers to achieve the same.

			<p>compliance for anti- money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Institute and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.</p> <p>(2) In undertaking its mandate under subsection (1), the Institute may—</p> <ul style="list-style-type: none"> a) vet proposed members of the reporting institution; b) conduct onsite inspection; c) Conduct offsite surveillance; d) Undertake consolidated supervision of a member of the Institute e) compel the production of any document or information the Institute may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act; f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes; g) issue regulations, guidelines, directions, rules or instructions for anti- money laundering, combating the financing of terrorism and countering proliferation financing purposes; 	
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			<p>h) co-operate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and</p> <p>i) Take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act and any regulations, guidelines, rules, instruction or direction made or issued thereunder</p> <p>(3) For purposes of this section, "reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act</p>	
45.	Penalties for violations relating to Money laundering and Terrorism Financing	S.8 B	<p>8B (1) No member of the Institute or a member, director, officer, employer, agent or any other person in the Council, Registration Board or Examination Board shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes.</p> <p>(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—</p> <p>a) in case of a legal person, to a penalty not exceeding five million shillings;</p> <p>b) in the case of a natural person, to a penalty not exceeding one million shillings; and</p>	To empower the institute to be able to sanction entities supervised for violations relating to Money laundering and Terrorism Financing. Additionally to comply with the FATF standards requiring that the sanctions applied are effective, dissuasive and proportionate.

			c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues	
Estate Agents Registration Act (Cap 533)				
46.	Interpretation	S.2	Insert the following new definition in proper alphabetical sequence— "terrorism financing" has the meaning assigned to it under the Prevention of Terrorism Act.	To provide for the definition of terrorism financing. The mandate has been given to the Board to supervise entities under its purview for AML/CFT/CPF.
47.	Powers of Authority for anti-money laundering and countering the financing of terrorism purposes.	S. 28	Powers of Authority for anti-money laundering and countering the financing of terrorism purposes. 28. (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, the Board shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Board and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply. (2) In undertaking its mandate under subsection (1), the Board may— a) vet the proposed members including the beneficial owners of a reporting institution; b) conduct onsite inspection;	The Bill seeks to review the constitutive law to give the Board supervisory powers for AML/CFT and also to provide for powers to achieve the same.

			<ul style="list-style-type: none"> c) Conduct offsite surveillance; d) Undertake consolidated supervision of a reporting institution; e) compel the production of any document or information the Board may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act; f) impose monetary, civil or administrative sanctions for violations related to anti- money laundering, combating the financing of terrorism or countering proliferation financing purposes; g) issue regulations, guidelines, directions, rules or instructions for anti- money laundering, combating the financing of terrorism and countering proliferation financing purposes; h) co-operate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and i) Take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act and any regulations, guidelines, rules, instruction or direction made or issued thereunder 	
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			(3) For purposes of this section, "reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti- Money Laundering Act	
48.	Penalties for violations relating to Money laundering and Terrorism Financing	S. 29	<p>29 (1) No member of a reporting institution shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes.</p> <p>(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—</p> <ul style="list-style-type: none"> a) in case of a legal person, to a penalty not exceeding five million shillings; b) in the case of a natural person, to a penalty not exceeding one million shillings; and c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non- compliance continues 	To empower the Board to be able to sanction entities supervised for violations relating to Money laundering and Terrorism Financing. Additionally to comply with the FATF standards requiring that the sanctions applied are effective, dissuasive and proportionate.
Certified Public Secretaries of Kenya Act (Cap 534)				
49.	Interpretation	S.2	Insert the following new definition in proper alphabetical sequence—	To provide for the definition of terrorism financing. The mandate has been given to the Institute to supervise entities under its purview for AML/CFT/CPF.

			"terrorism financing" has the meaning assigned to it under the Prevention of Terrorism Act.	
50.	Powers of Authority for anti-money laundering and countering the financing of terrorism purposes.	S.7A	<p>Powers of Authority for anti-money laundering and countering the financing of terrorism purposes.</p> <p>7A. (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, the Institute shall regulate, supervise and enforce compliance for anti- money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Institute and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.</p> <p>(2) In undertaking its mandate under subsection (1), the Board may—</p> <ul style="list-style-type: none"> a) vet the proposed members of a reporting institution; b) conduct onsite inspection; c) Conduct offsite surveillance; d) Undertake consolidated supervision of a member of the Institute; e) compel the production of any document or information the Institute require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act; 	The Bill seeks to review the constitutive law to give the Institute supervisory powers for AML/CFT and also to provide for powers to achieve the same.

			<p>f) impose monetary, civil or administrative sanctions for violations related to anti- money laundering, combating the financing of terrorism or countering proliferation financing purposes;</p> <p>g) issue regulations, guidelines, directions, rules or instructions for anti- money laundering, combating the financing of terrorism and countering proliferation financing purposes;</p> <p>h) co-operate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and</p> <p>i) Take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act and any regulations, guidelines, rules, instruction or direction made or issued thereunder</p> <p>(3) For purposes of this section, "reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti- Money Laundering Act</p>	
51.	Penalties for violations relating to Money laundering and Terrorism Financing	S.7B	7B No member of the Institute or a member, director, officer, employer, agent or any other person in the Council shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes.	To empower the institute to be able to sanction entities supervised for violations relating to Money laundering and Terrorism Financing. Additionally to comply with the FATF standards requiring that the sanctions applied are effective, dissuasive and proportionate.

			<p>(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—</p> <p>a) in case of a legal person, to a penalty not exceeding five million shillings;</p> <p>b) in the case of a natural person, to a penalty not exceeding one million shillings; and</p> <p>c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues</p>	
Public Benefits Organizations Act, 2013 (No 18 Of 2013)				
52.	Interpretation	S. 2	<p>Insert the following new definition in proper alphabetical sequence—</p> <p>"terrorism financing" has the meaning assigned to under the Prevention of Terrorism Act.</p>	To provide for the definition of terrorism financing. The mandate has been given to the Authority to monitor and oversight the sector from abuse against Terrorism Financing
53.	Objectives of the Act	S. 3	<p>Insert the following new paragraph immediately after paragraph (h)—</p> <p>(i) provide mechanisms that safeguard public benefits organisations from the risk of money laundering, terrorism financing or proliferation financing.</p>	<p>To provide for the need to protect the abuse of the sector from abuse for purposes of terrorism financing.</p> <p>The FATF standards require countries to identify the organisations which fall within the FATF definition of non-profit organisations (NPOs) and to assess their terrorist financing risks. It further requires countries to have in place focused, proportionate and risk-based measures, without unduly disrupting or discouraging legitimate NPO activities, in line</p>

				with the risk-based approach. The requirement seeks to remove the money laundering considerations which are currently in place.
54.	New mandate for the Authority to Monitor and oversight the sector against TF abuse	S. 43	<p>New</p> <p>Insert the following new sections immediately after section 43—</p> <p>Power of the Authority to public benefit organisations at risk of terrorism financing.</p>	<p>The Bill seeks to review the framework of NPOs regulation and supervision by removing NPOs from the category of reporting institutions. Once the law is passed NPOs would no longer be required to report for AML.</p> <p>The FATF standards require that those NPOs that are at risk of terrorism Financing be monitored and oversighted. Consequently, the PBO Act is amended to give PBORA the powers to periodically conduct risk assessment, identify the category of NPOs at risk of TF and to apply focussed and targeted measures as to that category of NPOs.</p> <p>The measures applied should not affect legitimate activity of NPO sector.</p> <p><i>(The amendments are aimed at addressing Kenya's strategic deficiencies in the FATF Action plan leading to the grey listing of the country)</i></p>
55.			<p>43A. (1) The Authority shall have powers to oversight and monitor public benefit organizations that are at risk of terrorism financing and in particular shall—</p> <p>a) periodically identify organizations that are likely to be at risk of terrorist financing abuse;</p>	

			<p>b) periodically conduct an assessment of the terrorism financing risks posed to such public benefit organizations;</p> <p>c) develop focused, proportionate and risk-based actions to address terrorism financing risks identified in paragraph (b);</p> <p>d) ensure that the measures developed in paragraph (c) do not undermine the legitimate operations of public benefit organizations.</p> <p>(2) The Authority shall ensure effective co-operation co-ordination and information-sharing on public benefit organizations at risk of terrorism financing with the Financial Reporting Centre and relevant law enforcement authorities.</p> <p>(3) The Authority shall have the power to issue regulations, guidelines, directions, rules or instructions for the public benefit organisation that have been identified to be at risk</p> <p>(4) The Authority may impose monetary, civil or administrative sanctions for violations under the Act.</p> <p>(5) The Authority may impose monetary, civil or administrative sanctions for violations under the Act.</p>	
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Governor

BANKI
KUU YA
KENYACENTRAL
BANK OF
KENYAHaile Selassie Avenue
P.O. Box 60000 - 00200 Nairobi, Kenya
Telephone: +254 20 286 1003

April 2, 2025

Mr. Samuel Njoroge, CBS
Clerk to the National Assembly
The Clerk's Chambers
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

Dear

A handwritten signature in black ink that reads "Mr. Njoroge".

**INVITATION BY THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS TO
SUBMIT VIEWS ON ANTI-MONEY LAUNDERING AND COMBATING OF FINANCING OF
TERRORISM (AML/CFT) LAWS (AMENDMENT) BILL**

Thank you for your letter of March 27, 2025, inviting me to a meeting with the Departmental Committee on Justice and Legal Affairs (JLAC) on Thursday, April 3, 2025, at Parliament Buildings. The agenda is to receive views on the Anti-Money Laundering and Combating of Financing of Terrorism (AML/CFT (Amendment) Bill, 2025.

The Central Bank of Kenya welcomes the Bill that will strengthen Kenya's AML/CFT regulatory framework. We have reviewed the Bill and have no specific comments.

Additionally, I write to advise of my unavailability to meet the JLAC on Thursday, April 3, 2025. This is due to a prior scheduled engagement with the Senate on the same day.

Sincerely,

A handwritten signature in black ink that reads "Dr. Kamau Thugge".

Dr. Kamau Thugge, CBS

cc: Hon. CPA. John Mbadi Ng'ongo, EGH
Cabinet Secretary
National Treasury and Economic Planning
P.O. Box 30007-00100
NAIROBI



Republic of Kenya
MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS
STATE DEPARTMENT FOR MINING
Office of the Principal Secretary

Telephone: 254-20- 2721074
Email : ps@mining.go.ke
Website: www.mibema.go.ke

WORKS BUILDING
NGONG ROAD
P.O. BOX 30009- 00100
NAIROBI

Ref. No. MIBEMA/SDM/LEG/23/1 VOL.III

2nd April, 2025

The Clerk of the National
Office of the Clerk
Parliament Buildings
NAIROBI

Attention: Mr. Jeremiah W. Ndombi, MBS

INVITATION BY THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS TO SUBMIT VIEWS ON THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025 NATIONAL ASSEMBLY BILL NO. 5 OF 2025)

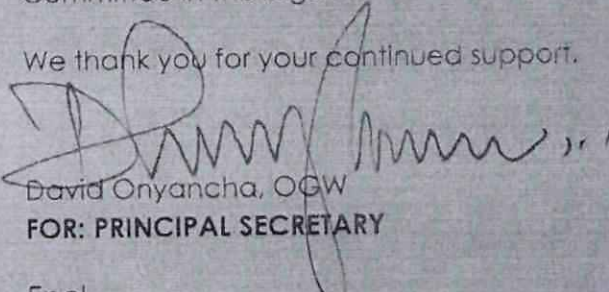
Reference is made to your letter Ref. No.NA/DDC/JLAC/2025/014 dated 26th March, 2025 on the above subject matter.

The Ministry hereby submits its observations and recommendations to the Departmental Committee on Justice and Legal Affairs concerning the aforementioned Bill. Attached hereto are the Ministry's submissions, with an electronic copy duly transmitted to the address cna@parliament.go.ke for the Committee's records.

The Committee is further apprised that, consequent upon the recent re-designation of Principal Secretaries, the State Department for Mining is now under the stewardship of Mr. Harry Kimtai, CBS, as its new Principal Secretary. The formal handover from the former Principal Secretary, Mr. Elijah Mwangi, CBS to the incumbent occurred on 1st April, 2025. In light of this transition, the Principal Secretary is presently unable to attend before this Committee and provide a comprehensive address, pending a full briefing on the matters at hand.

Nonetheless, in recognition of the significance of this Bill, the State Department for Mining shall ensure representation by officers from its Legal and Technical Unit, who will present the State Department's is considered views. We humbly crave the indulgence of the Committee in this regard.

We thank you for your continued support.


David Onyancha, OGW
FOR: PRINCIPAL SECRETARY

Encl

Copy to:

Hon. Hassan Ali Joho, EGH

Ministry of Mining, Blue Economy and Maritime Affairs

P O Box 30009-00100

NAIROBI

Mr. Harry Kimtai, CBS

Principal Secretary

State Department for Mining,

NAIROBI

Anti -Money Laundering and Combating Terrorism Financing Laws(Amendment) Bill No. 5 of 2025

S/N o	Law	Specific clause	Proposed change	Marginal Note	Justification
1	Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)	S. 2 in the definition of designated non-financial businesses and professions: Paragraph 2c - dealings in precious metals; Paragraph 2d - dealings in precious stones	Delete in paragraph (c) the words 'dealing in' and substitute therefor the words 'dealers in'. Delete in paragraph (d) the words 'dealing in' and substitute therefor the words 'dealers in'. Insert the following new definitions in proper alphabetical sequence: 'Dealers in precious metals or stones' includes a person engaged in: a) Mining operations i.e. production of precious stones or precious metals; b) Intermediate buying and brokering of precious metals or precious stones;		Puts in context the active part of the business as are the rest in the list. Improves clarity and the extent of scope of the term used. Under the Mining Act, Dealings does not include the extraction of minerals.

			<ul style="list-style-type: none"> c) The cutting, polishing and refining of precious stones or precious metals; d) The manufacturing of jewellery; and e) Retail selling of precious stones or precious metals. 		
		First Schedule Delete paragraph g	Include the State Department responsible for mining in the list of supervisory bodies.		State Department for Mining was left out in the list of supervisory bodies in the First Schedule.
2	Mining Act, Cap 306	Section 4 - Definitions of terms	<p>Insert the following new definition in proper alphabetical sequence: 'terrorism financing' has the meaning assigned to it in the Prevention of Terrorism Act</p> <p>Provide clarity on the section of POTA that gives the definition of terrorism financing.</p>		Helps to incorporate the provisions of the PoTA in the Mining Act so that as supervisory body for dealers in precious metals and stones, State Department for Mining can

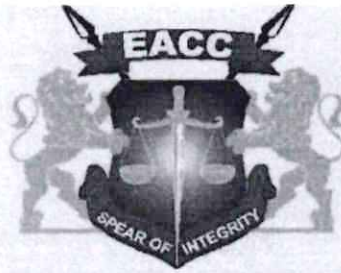
					enforce the same on the reporting institutions.
		Section 20 - Functions of the Director of Mines	Insert the following new sections immediately after Section 20.		
			<p>In the provision below, delete the term Director of Mines and Replace with Cabinet Secretary.</p> <p>20A (1) Pursuant to Sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, the Director of Mines shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Director of Mines and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.</p>	Powers of the Cabinet Secretary/Director of Mines for anti-money laundering and countering the financing of terrorism purposes	The General Administrator of the Mining Act is the Cabinet Secretary. The CS is the one with powers to develop regulations or guidelines. Further, the CS exercises his powers through the directorates in the Mining Act.

			<p>(2) In undertaking its mandate under sub-section (1), the Director of Mines may -</p> <ul style="list-style-type: none">(a) vet proposed mineral rights holders and mineral dealers who are the reporting institutions;(b) conduct onsite inspections;(c) conduct offsite surveillance;(d) undertake consolidated supervision of mineral rights holders and mineral dealers;(e) compel the production of any document or information the Director may require for the purpose discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act;(f) impose monetary, civil or administrative sanctions for violations related to		
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			<p>anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;</p> <p>(g) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating of terrorism financing and countering proliferation financing purposes;</p> <p>(h) co-operate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and</p> <p>(i) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money</p>		
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			<p>Laundering Act and any regulations, guidelines, rules, instruction or direction made or issued thereunder.</p> <p>(3) For purposes of this section "reporting institutions" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act.</p>		
			<p>20 (B) (1) No mineral rights holders or mineral dealers or their agents shall violate or fail to comply with the regulations, guidelines, directions, rules or instructions issued for anti-money laundering, combating the financing of terrorism and countering of proliferation financing purposes.</p> <p>(2) A person who violates or who fails to comply with the provisions of sub-section (1) shall be liable-</p> <p>(a) in case of a legal person, to a penalty not exceeding five</p>	<p>Penalties for violations relating to money laundering and terrorism financing</p>	<p>Empowers the Director of Mines/Cabinet Secretary to regulate, supervise and enforce the provisions relating to anti-money laundering, counter terrorism financing and countering proliferation financing purposes.</p>

			<p>million shillings, (b) in the case of a natural person, to a penalty not exceeding one million shillings, and (c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues</p>		
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ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Jakaya Kikwete/Valley Road Junction) P.O. Box 61130 – 00200, NAIROBI, Kenya
TEL.: 254 (020) 4997000, MOBILE: 0709 781000; 0730 997000
FAX: 254 (020) 2240954 EMAIL: eacc@integrity.go.ke WEBSITE: www.eacc.go.ke

When replying please quote:

EACC.1/13 VOL.IV (16)

3rd April, 2025

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
Parliament Buildings
P. O. Box 41842 - 00100
NAIROBI

Dear *Mr. Njoroge,*

RE: INVITATION BY THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS TO SUBMIT VIEWS ON THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 5 OF 2025)

This is to acknowledge receipt of your letter **Ref. NA/DDC/JLAC/2025/014** dated **26th March, 2025**.

The Ethics and Anti-Corruption Commission (EACC) recognizes the important role played by the National Assembly, and its various Committees in strengthening the legal framework for the fight against corruption.

The Commission will be represented by **Mr. David K. Too, OGW, Director, Legal Services and Asset Recovery** during the meeting of **3rd April 2025** for presentation of views on the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (National Assembly Bill No.5 of 2025).

We thank you for the continued support in the promotion of ethics and integrity.

Yours *sincerely*

Abdi A. Mohamud, MBS
SECRETARY/CHIEF EXECUTIVE OFFICER

Encl.



ETHICS AND ANTI-CORRUPTION COMMISSION (EACC)

**MEMORANDUM BY THE ETHICS AND ANTI-CORRUPTION
COMMISSION TO THE DEPARTMENTAL COMMITTEE ON JUSTICE
AND LEGAL AFFAIRS ON THE ANTI-MONEY LAUNDERING AND
COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT)
BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 5 OF 2025)**

Wednesday, 2nd April 2025



MEMORANDUM BY THE ETHICS AND ANTI-CORRUPTION COMMISSION TO THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS ON THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 5 OF 2025)

1. Background

Vide letter Ref. No. **NA/DDC/JLAC/2025/014** dated **26th March 2025**, the Ethics and Anti-Corruption Commission was invited by the National Assembly Departmental Committee on Justice and Legal Affairs to submit views on the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025. The Bill seeks to amend various Acts of Parliament to address technical compliance deficiencies in combating and countering money laundering; terrorism financing; and financing of proliferation of weapons of mass destruction. The proposed amendments seek to address issues identified by the Financial Action Task Force (FATF). In response thereof, the Commission has prepared its submissions as elaborated herein below.

2. Commission's mandate to combat and counter money laundering

- Under the Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the Palermo Convention (United Nations Convention against Transnational Organized Crime) which Kenya has ratified, member States are required to apply the crime of money laundering to all serious offences, with a view to including the widest range of predicate offences.
- Corruption and economic crimes include fraud, bribery and forgery which are designated categories of offences of money laundering falling in the Commission's mandate.
- The fight against corruption is intricately connected with combating against money laundering. Corruptly acquired assets are not always beneficial to the criminals until they are laundered in a manner that conceals the trail.

- Section 2 of the Anti-Corruption and Economic Crimes Act (ACECA) defines Economic Crimes to include; ***an offence involving the laundering of the proceeds of corruption***. The Commission is therefore a Competent Authority to investigate money laundering in Kenya.

3. Comments by EACC on the Proposed Amendments

The Commission has reviewed and analyzed the Bill and noted the following issues that are highlighted to the Committee for inclusion in the Bill to ensure the implementers (LEAs) can achieve effectiveness;

No.	Statute	Proposed Amendment	Justification
1.	Section 2 of POCAMLA	Explicitly define the term "proliferation financing" which has introduced but with a limited definition thus leaving room for ambiguity	A lack of clear definition may lead to inconsistent application of the law and hinder effective enforcement and compliance requirements.
2.	Section 2 of POCAMLA	Amend by including dealers in "Artefacts" and "Antiques" under the meaning of Financial Institution sub-section (g)	Illicit money is usually laundered through trade in expensive artifacts and antiques.
3.	Section 11 (1) of POCAMLA	Include a corresponding sanction for the offence of non-compliance by reporting institutions of Sections 44, 45, 46, 47 and 47A of POCAMLA	The Bill creates an offence for non-compliance by reporting institutions at Sections 44, 45, 46, 47 and 47A of POCAMLA. However, there is no corresponding sanction for the offences to be provided for in the law.
4.	Section 49 POCAMLA	Include the CEO of the Commission as a member of the Anti-Money Laundering Advisory Board	<p>A perusal of the functions of the Board as espoused in Section 50 of POCAMLA, it is critical that the CEO of the Commission be included as a member of the Anti-Money Laundering Advisory Board.</p> <p>The Commission is a key player in investigations on all matters corruption, economic crimes and money laundering relating to proceeds of corruption as per the 2023 amendment to ACECA.</p> <p>The presence of the CEO as a board member is critical in advising the Cabinet Secretary on policies, best practices and related activities to identify proceeds of crime or proceeds of unlawful activities and to combat money laundering activities.</p>
5.	Schedule 1	Proposed deletion of the NGO Co-ordination Board as supervisory body.	The NGO Co-ordination Act was replaced by the Public Benefit Organizations (PBO) Act, 2013 on 14

	Consider replacement with Public Benefit Organization Regulatory Authority	May 2024. The PBO Regulatory Authority is essential based on their regulatory role.
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Dated at **Nairobi**, this **3rd April 2025**.



Abdi A. Mohamud, MBS
Secretary/Chief Executive Officer
Ethics and Anti-Corruption Commission

**PROPOSED AMENDMENTS TO PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING
ACT, 2009**

No.	Section to be Amended	Proposed Amendment	Justification
1.	<p>53. The Agency and its Director (2) The Attorney-General shall upon recommendation by the Advisory Board appoint a fit, competent and proper person to be the Director of the Agency (hereinafter referred to as the "Agency Director").</p>	<p>Amend Section 53(2) of POCAMLA and other subsequent Sections by inserting the word "General" immediately after the word "Director"</p> <p>Subsequent Sections are: 53, 2, 12(6), 49(hb), 53, 53(2), 53(2A), 53(3), 53(4), 53(5), 53A(3), 53A(4), 53A(5), 54A(5), 54C(3)(a), 54F (1), 54F(2), 53A(k), 61(1), 61(5)(iii), 64(1), 64(6), 64(7), 64(8), 67(1), 67(2), 68(1), 75(2), 82(1), 83(1), 83(4), 86(1), 86(1)(a), 90(1), 90(2), 93(4), 93(5), 94(4), 94(5), 95(1), 95(2), 99(1), and 130C</p>	<p>To enhance the efficiency, clarity, and effectiveness of the Agency operations by;</p> <p>(i) Firstly, the adoption of the title "Director General" aligns with prevailing standards and practices in government institutions. This harmonization of terminology not only facilitates clear communication and understanding within the Agency but also fosters greater collaboration and interoperability with Agency counterparts on a national and global scale.</p> <p>(ii) The proposed amendment creates room and underscores a commitment to professional development and career progression within the Agency. It inspires a culture of excellence and aspiration among staff, thereby fostering a more dynamic and resilient workforce.</p> <p>(iii) The proposed change reflects an evolution in the mandate and scope of responsibilities entrusted to the Agency since its establishment. As the role in the realm of asset recovery continues to expand and diversify, it is imperative that the Agency structure remains agile and responsive to emerging challenges. The title "Director General"</p>

No.	Section to be Amended	Proposed Amendment	Justification
			<p>aptly encapsulates the breadth and complexity of the Agency's remit, ensuring that our legislative framework remains contemporary and adaptive to evolving circumstances.</p>
2.	<p>NEW</p>	<p>Amend Section 53A (5A) of the Principal Act by inserting the following new Section:</p> <p>-</p> <p>(5A) The Director General may designate a staff of the Agency as an investigator to conduct an investigation on behalf of the Agency.</p>	<p>To enable the Agency Director-General in exceptional circumstances to designate any staff of the Agency to investigate a matter especially where the staff possesses a special skill relevant to the investigation e.g an ICT officer well versed with cryptocurrency/virtual assets matters.</p>
3.	<p>55G. Cabinet Secretary to make Regulations (1) The Cabinet Secretary shall, in Regulations, prescribe the manner of discharging the functions of the Advisory Board including the procedure at its meetings. (2) Notwithstanding the generality of subsection (1), the Advisory Board shall regulate its own procedure.</p>	<p>Amend Section 55G of POCAMLA by deleting the entire Section.</p>	<p>Prescription of the manner of discharging the functions of the Agency's Advisory Board is covered under Section 55C thus 55G is a repetition. Section 55C provides: -</p> <p>"55C. Conduct of business of the Advisory Board The business and affairs of the Advisory Board shall be conducted in accordance with the provisions of the Fifth Schedule but subject thereto, the Advisory Board may regulate its own procedure.</p>

No.	Section to be Amended	Proposed Amendment	Justification
4.	<p>55A. Asset Recovery Advisory Board (1) There is established an advisory board to be known as the Asset Recovery Advisory Board which shall consist of—</p>	<p>Amend Section 55A of POCAMLA by: - (i) Delete the word “Asset” and substitute therefor the word “Assets”. (ii) Insert the word “Agency” immediately after the word ‘Recovery’</p>	<p>To correct the errors appearing on the Agency’s correct name i.e Assets Recovery Agency and the Board as “Assets Recovery Agency Advisory Board”</p>
5.	<p>71. Seizure of property subject to restraint order (1) In order to prevent any realizable property from being disposed of or removed contrary to a restraint order, a police officer may seize that property if he has reasonable grounds to believe that the property will be so disposed of or removed.</p>	<p>Amend Section 71(1) of the Principal Act by inserting the words “<i>Director General or the Agency investigator or</i>” before the word “police officer”</p>	<p>Director General and investigators are the authorised Agency staff to undertake investigations</p>
6.	<p>85. Seizure of property subject to preservation orders (1) In order to prevent property subject to a preservation order from being disposed of or removed contrary to that order, any police officer may seize any of that property if he has reasonable grounds to believe that the property will be so disposed of or removed.</p>	<p>Amend Section 85 of the Principal Act by inserting the words “the Director General, investigators or” immediately before the word “police officer”</p>	<p>To provide for the authorised persons under the Act to seize property subject to preservation orders.</p>

No.	Section to be Amended	Proposed Amendment	Justification
7.	<p>103. Production orders</p> <p>(1) Where a person has been charged with or convicted of an offence, and a police officer has reasonable grounds for suspecting that any person has possession or control of—</p> <p>(a) a document relevant to identifying, locating or quantifying property of the person, or to identifying or locating a document necessary for the transfer of property of such person; or</p> <p>(b) a document relevant to identifying, locating or quantifying tainted property in relation to the offence, or to identifying or locating a document necessary for the transfer of tainted property in relation to the offence, the police officer may make an ex parte application with a supporting affidavit to a court for an order against the person suspected of having possession or control of a document of the kind referred to.</p> <p>(2) A police officer to whom the documents are produced may—</p> <p>(a) inspect the documents;</p>	<p>Amend Sections 103, 105, 106, 107 and 108 of the Principal Act by inserting the words “Director General or investigator or” immediately before the words ‘police officer’</p>	<p>To provide for execution of the said functions by the Agency staff/authorised persons under the Act as well</p>

No.	Section to be Amended	Proposed Amendment	Justification
	<p>(b) make copies of the documents; or</p> <p>(c) retain the documents for as long as is reasonably necessary for the purposes of this Act.</p> <p>(3) Where a police officer retains documents produced to him, he shall make a copy of the documents available to the person who produced them.</p>		
8.	<p>124. Hearings of court to be open to public</p> <p>(3) An application for proceedings to be held behind closed doors may be brought by the Attorney-General or the manager referred to in section 68 and any other person referred to in subsection (2), and such application shall be heard behind closed doors.</p>	<p>Amend Section 124(3) of the Principal Act by deleting the words "Attorney-General" and substitute therefor the words "the Director General"</p>	<p>The proceedings identified hereto are filed by the Agency and not the Attorney General as provided.</p>

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② Mr. Aberayo Wasike, HoD

Pls inform JKAC.

JWL
02/04/25



CONFIDENTIAL

③ Mr John Mwangi
Mr Salemi Ahmed
Pls T.N.A
BKW
3/4/25

OFFICE OF THE PRESIDENT

Telegraphic Address: "Rais"
Telephone: Nairobi 2227411
When replying, please quote

**MINISTRY OF INTERIOR
AND
NATIONAL ADMINISTRATION**

P.O. Box 30510-00100
Nairobi

Our Ref: MOINA/SEC/1/27/1

Date: 1st April, 2025

**The Clerk of the National Assembly
Main Parliament Buildings
NAIROBI**

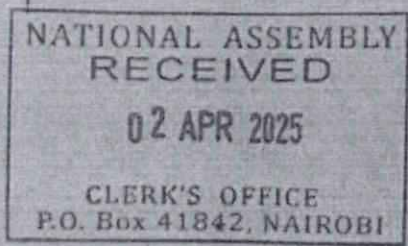
UDDC
2/4/25

INVITATION BY THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS TO SUBMIT VIEWS ON THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025 NATIONAL ASSEMBLY BILL NO. 5 OF 2025

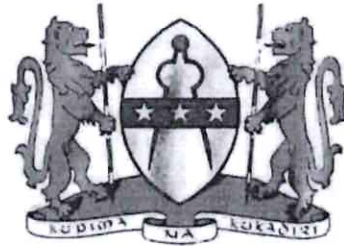
Reference is made to your letter reference number NA/DDC/JLAC/2025/014 dated 26th March, 2025 on the above subject matter.

Due to unforeseen sudden exigencies of the National Security, the Principal Secretary for Internal Security and National Administration requests that you postpone the meeting to a later date.

**J. N. NARENGO, EBS, MBS
FOR: PRINCIPAL SECRETARY/INTERNAL SECURITY
AND NATIONAL ADMINISTRATION**



CONFIDENTIAL



INSTITUTION OF SURVEYORS OF KENYA

1st April, 2025

Ref No. ISK/COU/CEO/25/776
The Clerk of the National Assembly,
P.O. Box 41842 -00100

NAIROBI

Attn: Mr. Jeremiah W. Ndombi, MBS

Dear Sir,

**RE: REQUEST TO SUBMIT VIEWS ON THE ANTI-MONEY LAUNDERING AND COMBAT
TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025 (NO.5 OF 2025)**

We make reference to the above.

Institution of Surveyors of Kenya (ISK) is a professional organization that brings together
in the land and built environment. ISK has a membership of over 6,000 members
major disciplines of surveying, namely: Valuation, Land Surveying, Estate Agency,
Management, Building Surveying, Land Administration Managers, Engineering Surveying,
Geospatial Information Management Surveying. The role of ISK is to advance the careers of
members as well as promote public interest.

Upon publishing of the above referenced Bill, we took a positive step and shared the
our members to review and give their comments. This was informed by the realization
of our members who are regulated by Estate Agent Act Cap 533 are required by the
review to register and file returns.

Arising from the above, we seek for an appointment with your office and in extension
relevant committee on a day and time that is most convenient with both parties to share
members comments for consideration with others.

We look forward to hearing from you.

Yours faithfully,

**Peter Kibet Arap Biwott,
Chief Executive Officer**

Head Office

10th Floor, Reinsurance Plaza,
Taifa Road, Aga Khan Walk
P.O. Box 40707-00100, Nairobi
Tel: 020-313490 / 0724929737 / 0737929737
Email: info@isk.or.ke
Website: www.isk.or.ke

Coast Branch Office

9th Floor, NSSF Building
Nkrumah Road,
P.O. Box 80325-80100, Mombasa
Tel: 0728038700
Email: coastbranch@isk.or.ke

Western Branch Office

2nd Floor, Sifa House,
Kibuye Mission Road,
P.O. Box 2072-40100, Kisumu
Tel: 0724717608
Email: westernbranch@isk.or.ke

South Rift Branch Office

1st Floor, OJ E
Stanley Math
P.O. Box 102
Tel: 0723586
Email: southrift@isk.or.ke



REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

Our Ref: AG/LDD/237/1/94

3rd April, 2025

Mr. Jeremiah W. Ndombi MBS
The Clerk of the National Assembly
Clerk's Chambers
Parliament Buildings
NAIROBI

RE: INVITATION BY THE DEPARTMENTAL COMMITTEE ON JUSTICE AND
LEGAL AFFAIRS TO SUBMIT VIEWS ON THE ANTI-MONEY LAUNDERING
AND COMBATTING OF TERRORISM FINANCING LAWS (AMENDMENT)
BILL, 2025 (NA BILL NO. 5 OF 2025)

This has reference to your letter under ref NA/DDC/JLAC/2025/014 and dated 26th March 2025 seeking our views on the Anti-Money Laundering and Combatting of Terrorism Financing Laws (Amendment) Bill, 2025 that has been committed to the National Assembly Committee on Justice and Legal Affairs for consideration.

We have reviewed the contents of the Bill and we wish to confirm that they do not offend the Constitution or the existing Acts of Parliament. However, we wish to bring to your attention the fact that the policy direction, which is likely to affect the content of the Bills, lies with the National Treasury and Economic Planning. Accordingly, there is need for concurrence from the National Treasury and Economic Planning, prior to finalization of the Bill.

We trust this is in order.

HON. SHADRACK J. MOSE
SOLICITOR-GENERAL



**CIVIL SOCIETY ORGANIZATIONS' MEMORANDUM ON THE ANTI-MONEY LAUNDERING AND COMBATTING OF TERRORISM FINANCING LAWS
(AMENDMENT) BILL, 2025**

25th March 2025

1.0 BACKGROUND AND INTRODUCTION

The [Civil Society Parliamentary Engagement Network \(CSPEN\)](#) is a forum for Non-state Actors, bringing together civil society organizations, professional associations, think tanks and research institutions whose program areas involve working with the legislature. The network was established in 2019 as a joint initiative of the Westminster Foundation for Democracy and Mzalendo Trust to provide a coordinated engagement with the Kenyan legislature, its committees and members in their oversight, legislation, and representation roles. Broadly, CSPEN seeks to engage with the legislature to ensure that legislative output meets the constitutional requirements of leadership, accountability, and integrity and is reflective of and aligns with the broader public interest. Currently, CSPEN has a Membership of Thirty-Five National Civil Society Organizations, and the priority areas are guided by the design and architectural framework of the parliamentary committees of the 13th Parliament ranging from, Public Finance Management (PFM) and Devolution; Inclusion and Representation; Leadership and Integrity; Human Rights and Access to Justice; Public Participation & Service Delivery; Climate Justice and Environmental democracy.

Recognizing that Parliament derives its legislative authority from the people, Parliament has put in place measures to comply with the principle of public participation as enlisted under Article 10 of the Constitution of Kenya, 2010. This includes convening public forums, submitting calls for memorandum through print and electronic media, and inviting members of the public, including representatives of civil society organizations to present their views. As a key tenet of entrenching good governance, CSPEN, alongside other partners, therefore, collectively submit this memorandum on the **Anti-Money Laundering & Combatting of Terrorism Financing Laws (Amendment) Bill, 2025** and prays that it be considered.

1.0 PROPOSED AMENDMENTS TO THE PUBLIC BENEFITS ORGANISATIONS ACT

#	Clause / Section	Provision of the Bill	Comment and Justification
1.	43A (d)	"ensure that the measures developed in paragraph (c) do not undermine the legitimate operations of public benefit organizations."	<ul style="list-style-type: none"> The law should be drafted and constructed in the positive. Instead of stating that measures should <i>"not undermine the legitimate operations of public benefit organizations,"</i> the legislation could affirm that measures should <i>"support and facilitate the legitimate operations of public benefit organizations."</i> This approach not only

1.0 PROPOSED AMENDMENTS TO THE PUBLIC BENEFITS ORGANISATIONS ACT	
#	Clause / Section
	Provision of the Bill
	Comment and Justification
	fosters a collaborative relationship between regulatory bodies and PBOs but also encourages compliance and mutual trust. ¹

GENERAL COMMENTS ON THE BILL

Comments and Views	Proposed Changes and Justification
<p>1. The Bill proposes various penalties and forms of sanctions for the different Acts that it seeks to amend.</p>	<ul style="list-style-type: none"> ▪ All the penalties proposed in the Bill should be in conformity with other Acts to ensure consistency across legislation and should also be in adherence with other legal principles as stated below: <ul style="list-style-type: none"> - Sanctions must be clear and legally certain. - Sanctions must be legally prescribed (<i>nullum crimen sine lege</i>). The UN Convention Against Corruption (UNCAC) in Article 30 underscores that sanctions must be established through legislative processes to prevent arbitrary enforcement. Further, the Kenyan Judiciary Sentencing Policy Guidelines (2016) advocates for legally defined sanctions to enhance fairness and predictability. - Principle of proportionality: Sanctions should correspond to the gravity of the offence. This is further echoed in the Financial Action Task Force (FATF) Recommendation 35 which provides that sanctions for non-compliance with AML/CFT regulations should be proportionate, dissuasive, and effective but not excessively punitive.
<p>2. The Public Benefits Authority Act: The Bill proposes that the PBO Act be amended, and the sector be subjected to reporting requirements as other sectors.</p>	<ul style="list-style-type: none"> ▪ Whilst the PBO sector may be susceptible to money laundering and illicit financial flows, amendments that seek to ensure and effect compliance of the sector to anti-money laundering laws should be sensitive to the working environment of PBOs and NPOs, taking into consideration increasing concerns over shrinking civic space, to ensure that the law is not used to further exacerbate the challenges of the sector. The Financial Action Task Force (FATF) underscores the importance of a risk-based approach,² that balances security measures with the operational freedom of non-profit organizations (NPOs). In its "Best Practices on Combating the Abuse of Non-Profit Organizations," the FATF advises that

¹ Use positive language as accessed on 24th March 2025

² Anti-money laundering: A risk-based approach to regulating non-profit organisations - Philea as accessed on 24th March 2025

Comments and Views	Proposed Changes and Justification
	<p>measures should be "proportionate to the assessed terrorist financing risks" and should "prevent the implementation of measures that are overly burdensome or restrictive for organizations working in the not-for-profit realm." This is also the position in Recommendation 8 of the FATF.³</p> <ul style="list-style-type: none"> ▪ A proposed process of reprimand should therefore involve: <ul style="list-style-type: none"> - Adequate notices and notice periods before taking regulatory action - Procedures for Compliance that emphasize correction rather than immediate punishment - Guarantee an independent Adjudication process - Ensure recourse and redress ▪ There is also need for the development and publication of Public Benefits Organizations (PBO) Sector Guidelines on anti-money laundering and countering the financing of terrorism.
<p>3. POCAMLA should be amended to establish a system of management of the assets recovered.</p>	<ul style="list-style-type: none"> ▪ In as much as the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA) establishes the Asset Recovery Agency, additional measures are needed to enhance its efficiency and ensure that recovered assets are not mismanaged or lost through corruption by establishing a robust asset management system. The effectiveness of POCAMLA in combating financial crimes depends not only on asset seizure but also on the proper management, utilization, and redistribution of recovered assets. ▪ A regional best practice can be drawn from South Africa, where the Criminal Asset Recovery Account (CARA) is used to fund law enforcement efforts and social projects, or directly compensate victims of economic crimes, ensuring that confiscated assets serve a public good.⁴ ▪ Other recommendations can include: <ul style="list-style-type: none"> - Increased funding and capacity for the Asset Recovery Agency in Kenya - Develop a national framework for the transparent management, valuation, and disposal of recovered assets. - Establish a public register for recovered assets to enhance accountability and minimize corruption risks.

³ Best Practices on Combating the Abuse of Non-Profit Organisations as accessed on 24th March 2025

⁴ South Africa 2021 - CEFAR as accessed on 25th March 2025

Comments and Views	Proposed Changes and Justification
<p>4. There should be guidelines developed for each sector for risk assessments.</p>	<ul style="list-style-type: none"> ▪ To strengthen the Anti-Money Laundering (AML) and Counter-Terrorism Financing (CTF) framework in Kenya, sector-specific risk assessment guidelines should be developed to ensure that risk evaluation is consistent, legally grounded, and aligned with international best practices. These guidelines should provide a clear framework for identifying, assessing, and mitigating risks in each sector, while safeguarding fundamental rights, including data protection and due process. This would be in line with the Money Laundering National Risk Assessment Guidance by FATF.⁵
<p>5. Further developments/amendments need to be made to cover all sectors susceptible to money laundering. This includes the automotive sector, more specifically, the sale of second-hand motor vehicles and some churches and faith ministries.</p>	<ul style="list-style-type: none"> ▪ An International Best Practice as a case study is the EU's 5th Anti-Money Laundering Directive (AMLD5) which mandates that specific risk assessment criteria be tailored to each sector to avoid a one-size-fits-all approach that could either overburden or inadequately regulate key industries.⁶ ▪ To effectively combat money laundering and illicit financial flows, Kenya must expand anti-money laundering (AML) laws and regulations to cover all high-risk sectors, including the automotive industry (especially second-hand vehicle sales) and certain religious institutions, such as churches and faith ministries. These sectors remain vulnerable due to weak regulatory oversight and the fact that they are highly cash-based sectors. ▪ Some churches and faith-based ministries handle large, unregulated cash donations, making them potential conduits for money laundering and terrorist financing. This therefore means that they may be vulnerable to illicit financial flows. We propose an amendment to Sec. 5 (2) of the PBO Act to specifically include a religious organization which is primarily devoted to religious teaching or worship. ▪ The sale of second-hand vehicles is a major cash-intensive industry, making it susceptible to money laundering, tax evasion, and illicit financial flows. The second-hand car dealerships are a common money laundering method, with criminals purchasing vehicles in cash and reselling them to integrate

⁵ FATF (2024), Money Laundering National Risk Assessment Guidance, FATF, Paris, <https://www.fatf-gafi.org/en/publications/MethodsandTrends/Money-Laundering-National-Risk-Assessment-Guidance.html>

⁶ Guidelines on ML/TF risk factors | European Banking Authority as accessed on 25th March 2025

Comments and Views	Proposed Changes and Justification
	<p>illicit funds into the economy.⁷ To enhance supervision and mitigate ML/TF risks within this sector, we propose that considerations for amendment of POCAMLA be made to:</p> <ul style="list-style-type: none"> ○ Designate motor vehicle dealers as reporting institutions legally obligating them to adhere to AML/CFT reporting requirements, including submission of Suspicious Transaction Reports (STRs) reports to FRC. ○ Consider empowering the National Transport and Safety Authority (NTSA) to oversee the AML/CFT compliance within the motor vehicle industry to be responsible for licensing, monitoring and enforcing compliance among dealers. ○ Mandate motor vehicle dealers to perform thorough CDD measures, to verify the identity of customers, understand the nature of their transactions and assess the sources of funds, especially for high-value cash-based transactions ○ Require dealers to maintain records of all transactions for a specified period and report any suspicious activities.
<p>6. The Estate Agents Registration Act: Further amendments to the Act to impose sanctions on real estate agents that are not registered under the Act.</p>	<ul style="list-style-type: none"> ▪ The Real Estate sector in Kenya presents significant AML/CFT vulnerabilities and risks, particularly as high-risk conduit for money laundering and illicit financial flows. A substantial portion of real estate agents operate without registration, creating regulatory blind spots that hinder effective monitoring, transaction scrutiny, and enforcement of compliance measures. This regulatory gap exposes the sector to illicit financial activities. Consequently, the effectiveness of the sanctions prescribed under the AML/CFT framework is undermined, as enforcement mechanisms remain largely ineffective in the absence of comprehensive sectoral oversight. Addressing this gap is critical in streamlining the AML/CFT regime and mitigating the risks posed by the sector.
<p>7. The Estate Agents Registration Act/ Proceeds of Crime and Anti-Money Laundering Act: The Acts should be further amended to ensure that transactions in the sector are cashless.</p>	<ul style="list-style-type: none"> ▪ In Kenya, the Estate Agents Registration Act does not explicitly require real estate transactions to be cashless, creating a loophole for unregulated cash payments. Moreover, POCAMLA covers real estate as a high-risk sector but lacks specific prohibitions on cash transactions. Amendments can therefore be made to mandate all real estate transactions above a specific threshold to be conducted electronically through licensed financial institutions to ensure traceability and prevent cash-based money laundering

⁷ FATF – Egmont Group (2020), Trade-based Money Laundering: Trends and Developments, FATF, Paris, France, www.fatf-gafi.org/publications/methodandtrends/documents/trade-based-money-laundering-trends-and-developments.html

Comments and Views	Proposed Changes and Justification
	<p>and require estate agents, law firms, and financial institutions involved in property transactions to conduct enhanced due diligence (EDD) and report suspicious transactions to the Financial Reporting Centre (FRC).</p> <ul style="list-style-type: none"> ▪ The amendment should go further and categorically ban the use of crypto assets, gold, platinum or precious stones as consideration for the purchase of real estate or the acquisition of shares in any company with domestic real estate in Kenya. ▪ A case example is the European Union (EU): The 6th Anti-Money Laundering Directive (AMLD6) imposes strict due diligence requirements on real estate agents and restricts large cash transactions to curb illicit financial flows.⁸
<p>8. The Mining Act: Regulation of the mining sector is welcomed but a lot of efforts need to go into making sure that the consequent amendment does not result in heavy socio-economic ramifications for small-scale miners, especially artisanal miners.</p>	<ul style="list-style-type: none"> ▪ The mining sector is a high-risk conduit for money laundering and should therefore be regulated. This is so because there are illicit actors exploiting gold, gemstones, and other precious minerals for financial crimes, including tax evasion, corruption, and smuggling. However, overregulation could disproportionately impact small-scale and artisanal miners, who form a significant part of the sector and rely on mining for their livelihoods. There should hence be a balance between regulation and socio-economic impact where the AML safeguards do not stifle economic growth.
<p>9. Data Protection and Privacy within the POCAMLA</p>	<ul style="list-style-type: none"> ▪ The proposed amendments should carefully balance the need for robust financial surveillance with respect for individual privacy rights, particularly in the context of sensitive financial information. ▪ Provisions related to the protection of personal data, particularly sensitive financial information, should be explicitly detailed.

⁸ Anti-money laundering: Council and Parliament strike deal on stricter rules - Consilium as accessed on 25th March 2025

The views in this Bill include the views of the following organizations:

1. Mzalendo Trust
2. Transparency International Kenya
3. Global Financial Integrity (GFI)
4. CIFAR – Civil Forum for Asset Recovery
5. Institute of Certified Public Accountants of Kenya (ICPAK)
6. National Taxpayers Association (NTA)
7. Uraia Trust
8. Institute of Public Finance – Kenya
9. East African Tax Governance Network (EATGN)
10. Centre for Fiscal Affairs
11. Westminster Foundation for Democracy (WFD)
12. National Democratic Institute (NDI)

CPS Governance Centre
Kilimanjaro Road, Upper Hill
P. O. Box 46935-00100
Nairobi, Kenya

+254 734 603 173
+254 792 167 185
+254 792 164 772
www.ics.ke info@ics.ke

Institute of
Certified Secretaries
The Governance Profession



MEMORANDUM BY

THE INSTITUTE OF CERTIFIED PUBLIC SECRETARIES OF KENYA (ICPSK)

**PURSUANT TO INVITATION TO SUBMIT MEMORANDA BY THE CLERK OF THE
NATIONAL ASSEMBLY ON THE ANTI-MONEY LAUNDERING AND COMBATING
OF TERRORISM FINANCING LAWS (AMMENDMENT) BILL (NATIONAL
ASSEMBLY BILL NO. 5 OF 2025)**

DATE: 24TH MARCH 2025

INTRODUCTION

The Institute of Certified Public Secretaries of Kenya (ICPSK) is a Professional Membership Association established by an Act of Parliament, the Certified Public Secretaries of Kenya, Cap. 534 of the Laws of Kenya of 1988. ICPSK rebranded to Institute of Certified Secretaries (ICS) in the year 2018. ICS is dedicated to the promotion, growth, development and regulation of the governance and corporate secretarial profession in Kenya.

ICS is mandated to promote and entrench sound governance practices in both public and private sector institutions. The Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (hereinafter "the Bill") introduces substantial compliance requirements affecting Certified Secretaries (CS') and the broader governance profession. The Bill, lays a strong foundation for financial transparency, accountability, and integrity within corporate governance. Its emphasis on strengthening compliance frameworks, oversight mechanisms, and professional responsibility is commendable. However, for these measures to be effectively implemented, key provisions must be refined to ensure clarity in institutional mandates, a balanced regulatory approach, and practical application.

ICS acknowledges that company secretaries and governance professionals play a critical role in upholding corporate accountability and transparency, which are essential in the fight against financial crimes such as money laundering, terrorism financing, and illicit financial flows.

It is possible that the inclusion of ICS in the regulatory framework stems from the recognition of CS professionals' role in corporate governance, financial compliance, and risk management. Many CS professionals work closely with corporate entities, ensuring adherence to legal and ethical frameworks. Consequently, ICS seeks to give clarity and alignment with existing legal and regulatory structures to ensure that AML compliance is implemented effectively and sustainably.

This memorandum highlights commendable aspects of the Bill, examines the relevance of the CS profession's regulatory framework role in AML compliance, and provides key recommendations to enhance its effectiveness while aligning with statutory requirements

COMMENDABLE ASPECTS

1. The Bill demonstrates a strong commitment to financial integrity by enhancing measures to combat money laundering and terrorism financing. By improving oversight and regulation, the Bill fosters greater transparency and accountability in corporate governance, ensuring that financial systems are safeguarded from illicit activities.
2. The Bill strengthens oversight of reporting institutions by reinforcing monitoring mechanisms for both financial and non-financial entities that handle high-risk transactions. This enhancement ensures that compliance obligations are clearly defined and that institutions are subject to rigorous regulatory scrutiny.
3. Furthermore, the Bill aligns Kenya's AML/CTF regulations with international best practices by incorporating globally recognized standards. This harmonization enhances Kenya's regulatory standing, fostering trust among international investors and financial institutions while ensuring that Kenya's financial ecosystem remains resilient and compliant with global frameworks.

While ICS supports these provisions, certain refinements are necessary to prevent regulatory overlap, compliance conflicts, and governance inefficiencies.

DISTINCTION BETWEEN THE ROLES OF THE INSTITUTE OF CERTIFIED SECRETARIES (ICS) AND REGISTRATION OF CERTIFIED SECRETARIES BOARD (RCPSB)

Since both the Institute of Certified Secretaries (ICS) and the Registration of Certified Public Secretaries Board (RCPSB) derive their mandates from Cap. 534, it is crucial to differentiate their roles within the AML/CTF framework.

Notably, RCPSB is the statutory body responsible for registering, licensing and regulating Certified Public Secretaries in Kenya. Under Section 11 of Cap. 534, RCPSB maintains the register of Certified Secretaries, issues practising Certificates and ensures those admitted to the profession meet the required academic and professional qualifications.

On the other hand, the Institute is the professional membership body responsible for promoting good governance, capacity building, professional development and upholding ethical standards within the governance profession. ICS derives its mandate from Section

7 of Cap 534, which empowers it to advance the governance profession through training, advisory services, policy advocacy and Continuous Professional Development (CPD). Unlike RCPSB, it does not regulate licensure but focuses on strengthening governance best practises, enhancing corporate compliance and equipping professionals with knowledge and skills to support ethical leadership.

While both institutions operate under the same legal framework, their roles are distinct yet complimentary. Therefore, within the AML/CFT framework, their functions must be clearly delineated to ensure compliance obligations align within their respective mandates. In cases where a mandate applies to both entities, provisions should be structured to ensure comprehensive coverage without overlap or conflict.

Therefore, the roles of ICS and RCPSB should be assigned in a manner consistent with their statutory mandates, as outlined below:

PROPOSED AMENDMENTS

Based on the above, we wish to make the following proposals: -

Common roles between ICS and RCPSB:

1. Compel the production of any document or information the Institute may require for the purposes of discharging its supervisory mandate under the Proceeds of Crime and Anti-money laundering Act.
2. Cooperate and share information to anti-money laundering and combating and the financing of terrorism or countering proliferation funding purposes.
3. Take any such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-money laundering Act and regulations, guidelines, rules instruction or direction made or issued thereunder.

Distinct roles between ICS and RCPSB:

Roles of The Institute of Certified Secretaries	Roles of RCPSB
Conduct onsite inspection	Vet proposed members of a reporting institution
Conduct offsite surveillance	
Undertake consolidated supervision of a member of the institute	
Issue guidelines, regulations, directions and rules for purposes of combating the financing of terrorism or countering proliferation funding purposes	
Impose monetary, civil or administrative sanctions for violations relating to anti-money laundering, combating the financing of terrorism or countering proliferation funding purposes	

CONCLUSION:

By addressing these areas, the Bill will not only align AML/CTF obligations with existing governance standards but also promote sustainable compliance structures that protect professional integrity while enhancing financial crime mitigation efforts. Implementing these refinements will strengthen Kenya's governance framework and reinforce ICS' role in fostering ethical corporate leadership and financial accountability.

ICS remains open to further engagement with all the FRC and even proposes for an opportunity to present the provision herein before the house in order to contribute in the refining of the Bill in a manner that ensures AML/CFT compliance without compromising governance best practices.

Should you require any further information or clarification, please do not hesitate to contact CS Gloria Kikete on GKikete@ics.ke or the undersigned on ceo@ics.ke.

Yours sincerely,

FCS Jeremiah N. Karanja, MBS.,
CHIEF EXECUTIVE OFFICER



Henia Anzala & Associates

Advocates, Commissioners for Oaths, Patent Agents, Notaries Public & Cps(K).

URGENT

Our Ref: HA/GEN/25/A
Date: 2nd April, 2025

The Clerk, National Assembly
Parliament Buildings
Nairobi

*DKS -
For attention of the
JABU
88-4-15*

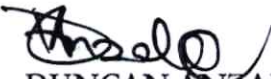
Dear Sir,

RE: PROPOSED AMENDMENTS TO THE PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING ACT, 2009 (POCAMLA)

We refer to the request by the Law Society of Kenya made on 11th March 2025 calling for comments on the Anti Money Laundering and Combating of Terrorism Financial Laws (Amendment) Bill, 2025.

We forward herewith our proposed amendments to the Proceeds of Crime and Anti-Money Laundering Act, 2009 which seek to enhance governance of the institutions established by the said Act, to wit, Asset Recovery Advisory Board and The Anti Money Laundering Advisory Board, for your consideration.

Yours faithfully,
HENIA ANZALA & ASSOCIATES


DUNCAN ANZALA
anzala@henia-anzala.com

NATIONAL ASSEMBLY
RECEIVED
08 APR 2025
CLERK'S OFFICE
P.O. Box 41842, NAIROBI

Partners: Henia Ruara, Duncan Anzala
Associates: Brenda Mueni, Rachael Mumbi, Richu Gathungu

PROPOSED AMENDMENTS TO PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING ACT, 2009 (POCAMLA)

No.	Former Section	Current Section	Proposed Amendment	Justification
1.	<p>55A. Asset Recovery Advisory Board (1)(a) The chairperson, who shall be appointed by the Cabinet Secretary from among members of the Advisory Board appointed under paragraphs (h) to (j)</p>	<p>55A. Asset Recovery Advisory Board (1)(a) The Attorney General, who shall be the Chairperson</p>	<p>Delete Section 55A.(1)(a) of POCAMLA and substitute therefore the following new paragraph (a) The Chairperson, who shall be appointed by the President from among members of the Advisory Board appointed under paragraphs (h) to (j)</p>	<p>To enhance independence of the Advisory Board and avoid apparent conflict created by the current provision for the following reasons:-</p> <p>(a) Assets Recovery Agency is an institution that has been placed under State Law Office headed by the Honourable Attorney General under Executive Order No. 2 of 2023. As such, the Honourable Attorney General is a kin to a Cabinet Secretary in a Ministry and cannot sit in a State Corporation.</p> <p>(b) Under Section 53(2) of POCAMLA, the Attorney General appoints the Agency Director of Assets Recovery Agency upon the recommendation of the Advisory Board. As such, the Attorney General cannot sit as a Chairperson of the Advisory Board to interview a prospective head of the institution and then make a recommendation to the same Attorney General. There is a clear conflict.</p> <p>(c) Mwongozo Code of Governance provides that the Chairperson of all State Corporations shall be appointed by the President and shall at a</p>

				<p>minimum possess the qualifications, skills and expertise set out in Attachment 1. This proposed amendment is done to be in line with the Mwongozo Code of Governance where the President appoints the Chairperson while the Cabinet Secretary appoints Board Members.</p>
2.	<p>55A. Asset Recovery Advisory Board (1)(b) The Attorney General</p>	Deleted	<p>Insert the following new paragraph to Section 55A.(1)(b) of POCAMLA as follows:- (1)(b) The Solicitor General</p>	<p>To enhance independence of the Advisory Board and avoid apparent conflict created by the current provision for the following reasons:-</p> <p>(a) Assets Recovery Agency is an institution that has been placed under the State Law Office headed by the Honourable Attorney General under Executive Order No. 2 of 2023. As such, the Honourable Attorney General is a kin to a Cabinet Secretary in a Ministry and cannot sit in a State Corporation.</p> <p>(b) The Solicitor General will represent State Law Office in the Advisory Board just the way the Principal Secretary represents a Cabinet Secretary in a State Corporation of a line Ministry.</p> <p>(c) This is not unique as other agencies which fall within the State Law Office under Executive Order No. 2 of 2023, being Business Registration Service established under the Business</p>

				Registration Service Act, 2015 and National Legal Aid Service established under the National Legal Aid Act, 2016, have the Solicitor General/Principal Secretary for the time being responsible for Justice sitting on the respective boards of the institutions representing the State Law Office.
3.	55B. Functions of the Advisory Board (1)(a) advising and overseeing the Agency on the exercise of its powers and performance of its functions	55B. Functions of the Advisory Board (1)(a) advising the Agency on the exercise of its powers and performance of its functions	Insert the words "and overseeing" in Section 55B.(1)(a) of POCAMLA after the word "advising" to read as follows:- (1)(a) advising and overseeing the Agency on the exercise of its powers and performance of its functions	To enhance the oversight role of the Advisory Board on the institution for the following reasons:- (a) Mwongozo Code of Governance provides that "the Board of Directors is the body of appointed members who jointly oversee the activities of the organization. (b) Mwongozo Code of Governance provides for the Role and Functions of the Board to include "setting and overseeing the overall strategy and approve significant policies of the organization. (c) The Advisory Board cannot function well without oversight on the institution/Agency.
4.	55B. Functions of the Advisory Board (1)(b) advising and overseeing the Agency on asset recovery policies and strategic priorities of the Agency.	55B. Functions of the Advisory Board (1)(b) advising the Agency on asset recovery policies	Insert the words "and overseeing" in Section 55B.(1)(b) of POCAMLA after the word "advising" to read as follows:-	To enhance the oversight role of the Advisory Board on the institution for the following reasons:-

		and strategic priorities of the Agency.	(1)(b) advising and overseeing the Agency on asset recovery policies and strategic priorities of the Agency.	<p>(a) Mwongozo Code of Governance provides that “the Board of Directors is the body of appointed members who jointly oversee the activities of the organization.</p> <p>(b) Mwongozo Code of Governance provides for the Role and Functions of the Board to include “setting and overseeing the overall strategy and approve significant policies of the organization.</p> <p>(c) The Advisory Board cannot function well without oversight on the institution/Agency.</p>
5.	55B. Functions of the Advisory Board (1)(c) advising and overseeing the Agency with respect to the administration of the Agency.	55B. Functions of the Advisory Board (1)(c) advising the Agency with respect to the administration of the Agency.	<p>Insert the words “and overseeing” in Section 55B.(1)(c) of POCAMLA after the word “advising” to read as follows:-</p> <p>(1)(c) advising and overseeing the Agency with respect to the administration of the Agency.</p>	<p>To enhance the oversight role of the Advisory Board on the institution for the following reasons:-</p> <p>(a) Mwongozo Code of Governance provides that “the Board of Directors is the body of appointed members who jointly oversee the activities of the organization.</p> <p>(b) Mwongozo Code of Governance provides for the Role and Functions of the Board to include “setting and overseeing the overall strategy and approve significant policies of the organization.</p>

				(c) The Advisory Board cannot function well without oversight on the institution/Agency.
6.	<p>49. The Anti-Money Laundering Advisory Board</p> <p>(1)(a) The chairperson, who shall be appointed by the Cabinet Secretary from among members of the Board appointed under paragraphs (f) to (h)</p>	<p>49. The Anti-Money Laundering Advisory Board</p> <p>(1)(a) The chairperson, who shall be appointed by the Cabinet Secretary from among members of the Board appointed under paragraphs (f) to (h)</p>	<p>Delete the word “Cabinet Secretary” in Section 49(1)(a) and substitute therefore with the word “President” as follows:-</p> <p>(1)(a) The chairperson, who shall be appointed by the President from among members of the Board appointed under paragraphs (f) to (h)</p>	<p>To enhance independence of the Advisory Board and avoid apparent conflict created by the current provision for the following reasons:-</p> <p>(a) Mwongozo Code of Governance provides that the Chairperson of all State Corporations shall be appointed by the President and shall at a minimum possess the qualifications, skills and expertise set out in Attachment 1. This amendment is done to be in line with the Mwongozo Code of Governance where the President appoints the Chairperson while the Cabinet Secretary appoints Board of Directors.</p> <p>(b) The Anti-Money Laundering Advisory Board is established by POCAMLA like the Asset Recovery Advisory Board. This proposed amendment is made in line with the proposed amendment to Section 55A(1)(a) of POCAMLA where the President is also proposed to appoint the Chairperson of Assets Recovery Advisory Board.</p>