Financial Services Sector Report

Q2 2023

MMAN ADVOCATES

BANKING

The Finance Act 2023 has amended various tax laws including the Income Tax Act (ITA), the Value Added Tax Act, 2013 (VAT Act), Excise Duty Act, Tax Procedures Act, 2015 (TPA), and the Miscellaneous Fees and Levies Act.

I. Acts of Parliament

The Finance Act, No. 4 of 2023 (link here)

a) **Expanded scope of financial institutions** – The Finance Act has amended the Income Tax Act to include mortgage refinance companies licensed under the Central Bank of Kenya in the list of financial institutions. As a result, mortgage refinance companies will be considered as financial institutions for taxation purposes. Therefore, interest payments to such institutions shall be exempt from withholding tax. Subsequently, there will be improved cash flow in the said institutions which are resident in Kenya. This provision shall come into effect on the 1st of January 2024.

b) **Removal of interest restriction on local loans** – The Finance Act has now amended the Income Tax Act to provide that the restriction on deductible interest expense based on 30% of earnings before interest, taxes, depreciation and amortization will only apply to foreign loans. Previously the restriction was applied to interest on loans from resident and non-resident persons. This move is bound to encourage the uptake on local loans and may result in restructuring of loans in favor of local financial institutions. The effective date of this amendment is 1st January 2024.

c) **Excise duty on fees charged for money transfer by financial institutions**

The Excise Duty Act has been amended to provide for a lower excise duty rate with regard to fees charged for money transfer services by licensed cellular phone service providers or payment service providers. The rate how been reduced to 15% from 20%. Financial institutions such as banks should take note of the reduced excise duty. The effective date of this provision is the 1st of July 2023.

II. Guidelines, Notices and Circulars

On 3rd May 2023, the Central Bank of Kenya ('**CBK**') announced the launch of the Kenya Quick Response Code Standard 2023 ('**the Standard**'). CBK noted that the Standard will guide how payment service providers and banks will issue Quick Response codes to consumers and businesses that accept digital payments. The implementation of the Standard intends to bring practical benefits to businesses and customers who will be able to make payments in an easy, fast and convenient manner. CBK also aim for the Standard to promote inclusion by enabling institutions of various sizes and customer focus to adopt digital payments. CBK noted that the Standard will be rolled out in a phased approach as payment service providers, banks and card schemes align their operations to the requirements set out in the standard and increased customer awareness.

Following [public feedback]() on the Discussion Paper on Central Bank Digital Currency ('**CBDC**'), the CBK issued a [press release]() on 2nd June 2023. Public responses mainly highlighted the potential benefits and risks of implementing CBDC as well as the need to consider Kenya's highly developed digital payments ecosystem. In light of challenges faced by central banks that were first to roll out CBDCs together with the recent instability in the global crypto assets market, there has been amplified concern and a need for careful review of the innovation and technology risks the CBDC poses. CBK also noted that implementation of a CBDC in Kenya may not be prioritized in the short to medium term as Kenya's pain points in its payment systems could continue being addressed by other innovative solutions around the existing payments ecosystems. Nonetheless, CBK will continue to assess developments in the adoption of CBDCs in other countries to inform future assessments of the need for CBDC in Kenya.

III. Judicial Decisions

Gulf African Bank Limited v Atticon Limited & 4 Others (Commercial Case E086 of 2019) [2023] KEHC 18241 (KLR) (Commercial and Tax) (26 May 2023)

Brief Facts:

This case concerns the level of duty of care owed by a bank to its customers, under contract and the tort of negligence, in the opening and operation of bank accounts.

Gulf Africa Bank (hereafter, "the Bank") initiated proceedings against the 1st – 4th Defendants for breach of lending and guarantee agreements and against the 5th Defendant for breach of an undertaking. The Bank sought to recover jointly and severally from the Defendants, KES21,991,649.53 plus interest at the rate of 14% p.a., being the outstanding loan facility (hereafter, "the impugned facility") extended by the Bank to the 1st Defendant Company (hereafter, "the Company").

The Company opposed the Bank's claims and specifically that it was indebted to the Bank for any sum of monies. The subject bank account, the Company contended, was opened and operated by the 2nd – 4th Defendants, who were neither the directors nor authorized representatives of the Company. In the Company's eyes, the impugned loan facility was sourced and utilized by the 2nd – 4th Defendants without the knowledge, consent and/ or approval of the Company's directors and/or legitimate representatives. In the circumstances, the Company accused the Bank of negligence and counterclaimed for the sum of KES21,846,607.25, being funds deposited into the subject bank account by various service providers but illegally appropriated by the 2nd – 4th defendants.

Bank's Case:

In urging the court to allow its claims and dismiss the Company's counterclaim, the Bank submitted that:

a) the Bank was, under law, not required to engage in an impractically extensive inquiry. All that was required of it, the Bank argued, was to act reasonably in all circumstances;
b) prima facie evidence i.e., the official search proved that the Company's directors were the same people who issued instructions to the Bank;
c) the documents presented by the persons who applied for the opening of the account and disbursement of the impugned facility were private and sensitive nature. As such, they could not have been tendered by strangers as contended by the Company;
d) given the above, there was nothing which, without more, should have raised the Bank's suspicion as to the fraud alleged by the Company; and
e) internal wrangles in the control of the Company were not sufficient basis for the finding of negligence on the part of the Bank.

Company's Case:
The Company opposed the Bank's claim regarding the impugned loan facility and urged that its counterclaim be allowed on the strength of the following arguments:

a) the Company did not enter into any *bona fide* banking relationship with the Bank;
b) the advancement of the impugned loan facility, if true, was negligently undertaken by the Bank to fraudsters;
c) the Bank had breached its special duty of care by failing, as it did, to verify the identities of the persons who applied to open the subject bank account. Specifically, the Bank did not abide by the Know your Customer Requirements and Customer Due Diligence Measures applicable to opening and operation of bank accounts;
d) the Account Opening Form was filled in and signed by persons who lacked authority to transact on the Company's behalf;
e) the opening of the bank account and disbursement of the impugned loan facility, having been done in a record 3 days, was a strong pointer of negligence, if not collusion with the imposters, on the part of the Bank;
f) the Company had, as a result of the Bank's negligence lost KES.21,846,607.25, being funds diverted by the imposters into the newly opened bank account then fraudulently utilised; and
g) the Bank had failed to stop operations on the account despite having had notice of the suspected fraudulent activities.

Issues for Determination:
In resolving the dispute, the Honourable Court was called upon to determine r:

a) whether the Bank was negligent in opening the subject bank account.

b) whether the Bank was negligent in advancing the impugned facility through the subject account.
c) whether the Bank's claim was merited.
d) whether the Company's Counterclaim was merited.

Held:

The Bank was negligent in opening the subject bank account.

In finding that the Bank was negligent in opening the bank account, the Honourable Court observed that:

a) the Bank did not conduct proper due diligence on the directorship of the Company. Indeed, as at the date of trial, the Bank was not still sure who the directors of the Company were;
b) since the Bank had not availed the documents submitted during the opening of the account, an adverse inference could be drawn that none of the documents required for opening an account were submitted by the Company;
c) the Bank failed to adhere to the Central Bank of Kenya Prudential Guidelines, 2013 ("the Prudential Guidelines");
d) had the Bank been prudent, it would have carried out the necessary enquiries to verify the identity of the Company's directors.

The Bank was negligent in advancing the impugned loan facility

The Honourable Court noted that the Bank had produced the loan application form but failed to include the mandatory documents required to be submitted by the Company alongside the form. The Bank had also failed to verify whether the alleged company secretary who signed the loan form was a registered company secretary.

Additionally, the Bank's witness admitted that it did not obtain the Company's annual returns filed with the Registrar of Companies. The Bank's failure to produce the documents, the court found, warranted the making of an adverse inference against it that the mandatory documents were not supplied by the loan applicant. The Honourable Court noted that the Bank would not have advanced the impugned facility had it insisted on the submission of the mandatory documents.

To compound its already difficult position, the Bank's witness confirmed that the impugned facility was disbursed to the Company after the Contract, whose performance it (the loan) was to facilitate, already lapsed.
For the foregoing reasons, the court held that the bank negligently disbursed the impugned facility.

The Bank was not entitled to recovering KES.21,991,649.53 from the Company

Given the findings of negligence against the Bank in opening the subject account and disbursing the impugned loan facility, the court held that it (i.e., the Bank) was not entitled to recover the same from the Company. Rather, the outstanding facility could only be recovered from the 2nd – 4th Defendants who not only executed personal guarantees in favour of the Bank, but also benefited from the impugned loan facility.

The Company's counterclaim was merited.

The Bank was held liable for the loss of KES21,846,607.25 deposited by various service providers into the account for the benefit of the Company. This is because the Bank had negligently allowed the 2nd – 4th Defendants to open and operate the bank account and failed to take any reasonable steps to stop fraudulent transactions on the account even after notification. The 2nd – 4th Defendants were also held to be jointly and severally liable for the counterclaim to the extent that they fraudulently held themselves out to be the directors of the Company.

Conclusion:

The decision is a reminder for banks to ensure, both at the account opening stage and during its operation, strict compliance with the provisions of (inter alia) the Prudential Guidelines against which they should expect their conduct to be judged.

Additionally, the decision is a cautionary tale on the consequences of failing to adduce relevant evidence, in defense of a negligence claim, during trial. Ultimately, it is the Bank's failure to submit the due diligence documents procured at the account opening stage and the mandatory documents submitted in support of the loan application, that became its biggest undoing. Had the Bank availed these documents for the court's examination, the adverse inferences that led to findings of negligence may not have been made against the Bank.

Oracle Systems Limited (Kenya Branch) V Commissioner of Domestic Taxes [Tax Appeal Tribunal Appeal No 148 Of 2019]

Brief Facts:

The respondent issued a notice of intention to audit the appellant's operations for the period 2013 and 2014. The respondent issued a notice of assessment in which it demanded for payment of principal tax, penalties and interest amounting to Kshs 1,928,805,299.00 in respect to corporation tax , pay as you earn (PAYE) taxes and value added tax (VAT).

The appellant objected to the entire assessment and subsequently the respondent issued its objection decision. Being aggrieved by the decision the appellant lodged the appeal.

Appellant's Case:

In urging the court to allow its appeal the appellant argued that VAT is only chargeable when supply is made to another person.

The definition of a person under section 2 of the VAT Act is extensive and exhaustive. The appellant submitted that the list in section 2 of the VAT Act could easily include a branch, but it doesn't. it submitted that it was evident that a branch is not a separate entity from its head office and therefore, the activities of the branch could not constitute services rendered to another person.

Respondent's Case:

The respondent argued that the appellant is registered for VAT allocated a VAT number and thus considered a registered person for VAT purpose. Section 2 of the VAT Act defines a registered person as any person registered under section 34 but does not include an export processing zone enterprise or a special economic zone.
It further submitted that the transaction between Oracle Systems Limited ("OSL") Kenya and its head office constituted a supply for VAT purposes since OSL Kenya is a registered person.

Held:

The tribunal analyzed the various provisions of the VAT Act and held that the definition of a person as per the VAT Act include an individual, company, person, trust, estate, and government but silent on whether branches are part of a person.

The tribunal held that law must be interpreted strictly, as was the position in *Tanganyika Mine Workers Union vs The Registrar of Trade Unions 119611EA 629*.

The issue on whether a branch is separate from its head office was dealt in the case of *Jane Wambui Weru v Overseas Private Inv Corp & 3 others*.

The tribunal agreed with the position of the High court in *Jane Wambui Weru* that a branch and its parent are one and cannot be treated as separate legal entities. The import of the above judgement is that branches are deemed to be one and the same person as the head office, and payment between them cannot be seen as payment between two persons.

Conclusion:

The decision is a reminder that activities carried out by a branch cannot constitute to a supply chargeable to VAT, as a branch is not a separate legal entity from its head office.

FINTECH

The quarter under review saw the introduction of withholding tax for digital content monetization. This burgeoning online market created by young impressionable Kenyans who are content creators and influencers shall now be subject to tax as provided in the Finance Act. While it serves to increase the tax base, it undoubtedly means additional investment burdens to be borne by companies that seek to advertise online.

I. Acts of Parliament

The Finance Act, No. 4 of 2023 (link here)

a) **Introduction of withholding tax for digital content monetization.** - The Finance Act of 2023 has amended the Income Tax Act by introducing a 5% withholding tax to be imposed on digital content creators/influencers. The term "digital content monetization" has now been defined and identifies the types of material that will attract the tax such as electronic materials for monetary value in terms of advertisement, sponsorship, affiliated marketing and subscription services. Companies that use online advertisements and other similar activities falling within the definition should take note of the additional financial implication. This amendment was effective as of 1st July 2023.

b) **Registration of suppliers of imported digital services –**

The Value Added Tax (No. 35 of 2013) has been amended by the Finance Act to provide that entities supplying imported digital services over the internet or through a digital marketplace shall register for VAT regardless of whether the taxable supplies meet the turnover threshold of five million shillings. Previously, entities not meeting this threshold were not required to register for VAT. This provision shall be effective from 1st July 2023.

c) **Introduction of Digital Asset Tax** – From 1st September 2023, a 3% tax levy shall be imposed on the exchange or transfer of digital assets. Under the Income Tax Act, income for digital assets is defined as the gross fair market value received/receivable at the point of transfer. Therefore, the owner or a person who facilitates the transfer of a digital asset such as cryptocurrency/token code/non-fungible token is required to remit the digital asset tax within five working days of the transaction. This provision applies to non-residents as well who shall register under the simplified tax regime. With the introduction of this tax, there is a risk of double taxation on the proprietor as he or she is still liable to pay capital gains tax and corporation tax.

d) **Amendment of excisable fees charged by digital lenders.**

The previous year's Finance Act amended the Excise Duty Act and introduced an excise duty to be charged on the fees charged by digital lenders. The Finance Act of 2023 has now amended the Excise Duty Act further and now clarifies that the excise duty of 20% shall be charged only on amounts in respect of lending. The effective date of this provision was the 1st of July 2023. The amendment may result in an increase in the cost of borrowing on digital platforms.

INVESTMENTS

The Income Tax Act has been amended to redefine an ultimate parent entity (UPE).

I. Acts of Parliament

The Finance Act, No. 4 of 2023 (link here)

a) **Country by Country report by Ultimate Parent Entities** – The Income Tax Act has been amended to redefine an ultimate parent entity (UPE) as an entity that is (i) not controlled by another entity; and (ii) which owns or controls, directly or indirectly, one or more constituent entities of a multinational enterprise group. The amendment stipulates that every parent entity that is resident in Kenya ought to file a country-by-country report. Additionally, constituent entities shall also comply with this requirement if (i) the country where the ultimate parent entity is not obligated to file the report in its jurisdiction of tax residence; (ii) the jurisdiction in which the ultimate parent entity is resident has a current international tax agreement which Kenya is a party to but does not have a competent authority agreement with Kenya at the time of filing the country-by-country report for the reporting financial year; or (iii) there has been a systemic failure of the jurisdiction of tax residence of the ultimate parent entity that has been notified by the Commissioner to the constituent entity resident in Kenya. The effective date of this provision is 1st July 2023.

II. Subsidiary Legislation

The Value Added Tax (Electronic, Internet and Digital Marketplace Supply) Regulations, 2023, Legal Notice 29 of 2023

The Value Added Tax (Electronic, Internet and Digital Marketplace Supply) Regulations, 2023 (the **"Regulations"**) were published on 21 March 2023 by the Cabinet Secretary for the National Treasury and Economic Planning pursuant to section 67 of the Value Added Tax Act, 2013 which requires the Cabinet Secretary to make Regulations for the better implementation of the provisions of the Value Added Tax. These Regulations revoke the Value Added Tax (Digital Market Supply) Regulations, 2020.

In brief, the Regulations provide the following:

a) **Taxable electronic, internet or digital marketplace supplies**

Regulation 3 extensively lists the taxable electronic, internet or digital marketplace supplies[1]. These are the services that are taxable under these Regulations. They include (a) downloadable digital content including mobile applications, eBooks and films; (b) subscription-based media including news magazines and journals; (c) over-the-top services including streaming television shows, films, music, and podcasts; (d) software programmes including software, drivers, website filters and firewalls; (e) electronic data management including website hosting, online data warehousing, file sharing and cloud storage services; and (f) music and games.

The Regulations further lists: (g) search engines and automated helpdesk services including customisable search engine services; (h) ticketing services for events, theatres, restaurants; (i) online education programmes

[1] The regulations define an electronic, internet or digital marketplace supply as the supply made over the internet, an electronic network or any digital marketplace.

including distance teaching programmes through pre-recorded media, eLearning, education webcasts, webinars, online courses and training but excluding education services exempted under the First Schedule to the Act; (j) digital content for listening, viewing or playing on any audio, visual or digital media; (k) services that link the supplier to the recipient[2] including transport hailing platforms; (l) electronic services specified under section 8(3); (m) sales, licensing, or any other form of monetizing data generated from users' activities; (n) facilitation of online payment for, exchange or transfer of digital assets excluding services exempted under the Act ; and (o) any other service provided through an electronic, internet and digital marketplace that is not exempt under the Act.

b) Application of tax

Regulation 4 provides that tax shall apply to a taxable electronic, internet or digital marketplace supply made in Kenya.

c) Registration framework and process

The tax registration framework is provided for by Regulation 5. A person is required to register in Kenya within 30 days after making a taxable supply. The requirements include that first the person supplying comes from an export country[3] to a recipient in Kenya and conducts business in Kenya in accordance with Section 8(2). The payment for the services is made to the supplier from a bank registered under the Banking Act Chapter 488 of the laws of Kenya or the payment is authorised in Kenya. The supplier should declare and pay tax at the rate prescribed in Section 5(2)(b) of the Value Added Tax Act No. 35 of 2013[4].

The registration process is stipulated in Regulation 6. The registration should be done through an online registration form prescribed by the Commissioner. The accompanying information to be provide is the trading name, name of contact person, postal address, telephone number, email, website report, national tax identification number and certificate of incorporation.

d) Place and Time of Supply[5]

The place of supply of the electronic, internet or digital marketplace is deemed to have been made in Kenya where the recipient of the supply is in Kenya. There are considerations to be taken by the Commissioner in determining if the recipient of the supply is in Kenya. These include: the payment proxy, including credit card or debit card information and bank account details of the recipient, is in Kenya, the residence proxy, including the billing or home address, is in Kenya and lastly the access proxy, including internet address or mobile country code of the subscriber identification module card of the recipient, is in Kenya.

The time of supply shall be the earlier of the date on which the payment for the supply is received in whole or in part or the date on which the invoice or receipt of the supply is issued.

e) Exemption from issuing electronic tax invoice[6]

A supplier registered under the Regulations shall not be required to issue an electronic tax invoice provided that the supplier shall issue an invoice or receipt showing the value of the supply, the tax deducted and the personal identification

[2] A recipient in relation to any supply of an electronic, internet or digital marketplace supply, means the person to whom the supply is made.

[3] Export country means any country, other than Kenya, and includes any place which is not situated in Kenya.

[4] The rate of tax shall be in any other case, sixteen per cent of the taxable value of the taxable supply, the value of imported taxable goods or the value of a supply of imported taxable services.

[5] Regulation 8 and 9

[6] Regulation 10 and 11

number of the customer. The invoice or receipt issued shall be deemed to be a tax invoice.

f) **Accounting for and payment of Tax**

Regulation 12 states that the tax in respect of an electronic, internet or digital marketplace supply made to a recipient in Kenya should be paid by the supplier or tax representative of the supplier as stipulated in Regulation 7.

A registered person shall submit a return in the prescribed form and remit the tax due in each tax period to the Commissioner on before the twentieth day of the month following the end of the tax period or where an intermediary[7] makes an electronic, internet or digital marketplace supply on behalf of another person, the intermediary shall be required to charge and account for the tax on the supply whether such other person is registered for tax or not.[8]

The penalty for non-compliance with these Regulations is liable to penalties prescribed under the VAT Act or Tax Procedures Act 2015.[9]

You may find a copy of the Amendment Regulations here**.

III. Guidelines, Notices and Circulars

The Capital Markets Authority ('**CMA**') published a public notice on 11th May 2023 inviting stakeholder and public feedback on the draft:

a) Capital Markets (Licensing Requirements) (General) Regulations, 2023; and
b) Capital Markets (Take-overs and Mergers) Regulations, 2023.

The CMA noted that the draft regulations are aimed at enhancing regulatory responsiveness to changing dynamics and market developments, technological advancements and emerging supply and demand stakeholder needs. Submission of comments on the draft regulations closed on 18th May 2023.

CMA issued a circular dated 22nd June 2023 to all custodians of registered collective investment schemes providing guidance on submission of reports on the assets of scheme accounts, receipts and payments made as well as other actions taken by the custodians. Custodians were reminded that the first submission is expected by 15th July 2023.

[7] An intermediary means a person who facilitates the supply of an electronic, intern et or digital marketplace supply and who is responsible for issuing invoices or collecting payments in respect of the supply.

[8] Regulation 13

[9] Regulation 14

RETIREMENT BENEFITS

The Finance Act 2023 has amended the Income Tax Act and declared exempt on any investment income from a post-retirement medical fund and also any payment made in the form of funds transfer from a post-retirement medical fund to a medical insurance cover provider.

I. Acts of Parliament

The Finance Act, No. 4 of 2023 (link here)

a.) **Post-retirement medical fund tax exemption** – The Finance Act 2023 has amended the Income Tax Act and has now declared exempt any investment income from a post-retirement medical fund (whether or not the fund is part of a retirements benefit scheme) and also any payment made in the form of funds transfer from a post-retirement medical fund to a medical insurance cover provider. Trustees of pension funds and retirement benefits schemes are likely to see an increase in uptake of post-retirement medical schemes and increase of contributions towards the post-retirement medical fund. The proposed effective date is 1st July 2023.

b.) **Local ownership of administrators of retirement benefits schemes.**

The Finance Act 2023 has now amended the requirements for registration of scheme administrators by reducing the amount of paid-up share capital that must be owned by Kenyan citizens. Previously, for a scheme administrator to be registered with the Retirement Benefits Authority they had to have at least sixty (60%) percent of its share capital owned by Kenyans. This amount has now been amended to thirty-three (33%) percent. The effective date of this provision is the 1st of July 2023. Administrators should take note of the new local ownership requirement. With this amendment, we are bound to see an increase in foreign investment in scheme administrators.

II. Guidelines, Notices and Circulars

On 9th June 2023, the Retirement Benefits Authority ('**RBA**') posted on its website an invitation for public and stakeholder comments on the draft national retirement benefits policy. The RBA scheduled countrywide public forums for oral submission of comments on the draft policy on 20th June 2023 while submission of written proposals would close on 20th June 2023.

The draft policy's objectives include:

i. increasing coverage of retirement benefits for formal and informal sector workers;
ii. coordinating and harmonizing existing legal and regulatory framework;
iii. providing mechanisms for good governance and sustainability of the retirement benefits system;
iv. facilitating portability of retirement benefits between schemes and across borders;
v. promoting innovation in the retirement benefits sector; and
vi. promoting affordable, adequate and sustainable retirement benefits for formal and informal sector workers.

SACCO SOCIETIES

On 6th June 2023, the Saccos Societies Regulatory Authority ('SASRA') issued guidelines on minimum requirements for engagement of third-party financial system integrators and vendors.

I. Guidelines, Notices and Circulars

On 6th June 2023, the Saccos Societies Regulatory Authority ('**SASRA**') issued guidelines on minimum requirements for engagement of third-party financial system integrators and vendors. SASRA noted that Saccos are substantially dependent on the use of fintech for provision of mobile money services to their members. However, some financial systems utilized by Saccos are also prone to cyber-attacks and breaches which may lead to loss of Sacco funds. With a view to mitigate cyber-attacks on these financial systems, SASRA has directed all regulated Saccos to ensure that the fintech integrators and/or vendors to whom they have outsourced their mobile money processing and delivery services are:

a) compliant with the requirements of the National Payment Systems Act and its regulations; and
b) are members of a duly registered self-regulatory organization of fintech vendors recognized by SASRA.

Additionally, SASRA requires regulated Saccos to ensure that the terms and conditions in contractual engagements with their fintech integrators and vendors incorporate aspects such as:

a) undertake ICT audit and penetration testing including:
   - a mandatory bi-annual security penetration test of technology environment;
   - an annual full IT audit with respect to an integrator's governance and internal policies, application controls, identity and access management, business continuity, disaster recovery etc.; and
   - allow SASRA unfettered access to the integrator/ vendor's systems used to provide services to regulated Saccos.

b) have an incident response plan which includes:
   - formulating and implementing a robust incident response plan; and
   - providing technical assistance to SASRA during any investigations or inspections of the affairs of any of the regulated Saccos including transactional information of the Sacco.

c) bank guarantee and insurance indemnity:
   - provide a mandatory bank guarantee for each Sacco on the integrator's platform sufficient to cover 10% of the money held in the float held by each Sacco at the mobile money wallet provider business to consumer account (paybill);
   - provide an insurance indemnity policy covering the balance of the money held in the float held by each Sacco at the mobile money wallet

provider business to consumer account (paybill); and

- provide that disputes arising between the Sacco and the integrator shall be resolved through the self-regulatory organization in which the integrator is a member.

d) undertaking annual employee due diligence checks; and
e) adherence to minimum basic information technology security standards.

SASRA noted it reserves the right to prohibit any regulated Saccos from using any fintech vendor or integrator who is not compliant with the requirement in the guidelines.

MMAN ADVOCATES

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