



COUNCIL GUIDELINES FOR CONVERSION OF CPA FIRMS INTO LIMITED LIABILITY PARTNERSHIPS (LLPs)

(Guidelines No. _____, dated 1st January 2019)

The LLP Act was enacted in 2011. However, professional accountancy firms offering auditing and assurance services (audit firms) have been restricted to practise either as sole practitioners or as ordinary partnerships due to the requirements of the Companies Act Cap 486 which prohibited a body corporate from appointment as an auditor. It is for this reason that the Council held in abeyance guidance on the conversion into LLPs. The Companies Act, 2015 became effective in full in June 2016 and provides that an auditor can be an individual or a firm, subject to the provisions of the Accountants Act.

Following the new Acts and in terms of the Council decision dated -----, the following guidelines for conversion of CPA firms into LLPs and constitution of separate LLPs by members in public practice, have been finalized and are applicable for conversion of CPA firms into LLPs or formation of new LLPs by members the Institute in practice subject to the provisions of the Limited Liability Partnership (LLP) Act, 2011 and Regulations framed there under: -

I. General Requirements for CPA LLP firms

1. For purposes of CPA LLP firms, all partners shall be members of ICPAK holding a practising certificate issued under section 21 of the Accountants Act, 2008; and have a valid annual licence issued under section 22 of that Act. The LLP firm shall be issued with a firm licence.
2. The LLP firm shall be required to describe itself as “*licensed by ICPAK as a CPA LLP*” and the same shall be included in all its publications together with the LLP Registration Number.

II. Conversion of CPA firms into LLPs

3. All existing CPA firms who want to convert themselves into LLPs are required to follow the provisions of Part V of the Limited Liability Partnership Act, 2011 read with the Second Schedule to the said Act containing provisions of conversion from existing firms into LLPs.
4. For purposes of ICPAK by-law No. 36, and subject to the LLP Regulations, 2014, No. 4 (b) and 5 (m), if the proposed name of an LLP includes the words ‘Certified Public Accountants’ or designation “CPA”, or any name that implies practice of accountancy, as part of the proposed name, the



same shall be referred to the Institute of Certified Public Accountants of Kenya (ICPAK) by the Registrar of LLPs and it shall be allowed by the Registrar only if the RQAC of ICPAK, approves it.

5. If the proposed name of an LLP of a CPA firm resembles any other non-CPA entity, the proposed name of the LLP of a CPA firm may include the word 'Certified Public Accountants' in the name of the LLP itself and the Registrar may allow the same name, subject to (2) referred above.
6. For the purpose of registration of an LLP with ICPAK, the partners of the firm shall apply using ICPAK Form No. 'A' and ICPAK Form No. 'B' along with a copy of name reservation received from the Registrar of LLPs and submit the same to ICPAK. These Forms shall contain all details of the offices and other particulars as called for together with the signatures of all partners or **authorized partner** of the proposed LLP.
7. The names of the CPA firms registered with ICPAK shall remain reserved for the partners as one of the options for LLP names subject to the provisions of LLP Act, and Regulations framed there under.
8. The following guidelines relating to seniority¹ and other criteria shall be followed for registration of an LLP with ICPAK.
 - 8.1. Where two similar or identical or nearly similar firm names, have been registered by ICPAK, under the proposed LLP, only one such firm name shall be approved and remaining firm registered with ICPAK, either desires to convert into LLP or not, a change in the firm name shall be required.
 - 8.2. The name of the LLP shall comply with ICPAK By-law No. 36.
 - 8.3. The newly converted CPA LLPs registered with ICPAK shall be allowed to work only in terms of the Accountants Act, 2008 and the object of the LLP to be incorporated in Form LL1 and/or Form LLP5 of the LLP Regulations, 2014 or in the LLP agreement, shall be in the nature of Professional Services allowed under the Accountants Act, 2008. LLPs shall be subject to the same regulations, as if they were general partnership firms. Mere conversion into an LLP does not give any privileges, which were not earlier with the CPA firms.
 - 8.4. When all the partners of two or more partnership firms desire to convert/form only one LLP, in that case the name and firm may be selected from only one of such firms for the purpose of registration with ICPAK and;
 - 8.4.1. The other such firms shall stand dissolved.
 - 8.4.2. Seniority shall be decided as per applicable guidance.

¹ Seniority is referenced in the context of which firm was first licensed under such name, and where both firms are licensed on the same date, which one was licensed first by the Institute and its name included in the register of firms.



9. These guidelines for conversion of CPA firms into an LLP shall also be applicable to the conversion of a proprietary firm into an LLP subject to the provisions of the LLP Act and Regulations framed there under. The conversion of a proprietary firm shall be by way of incorporation of a new LLP.
10. Introduction of LLPs shall not affect the existing regulations in force as regards the name allotment to certified public accountants' firms.
11. In relation to a partnership converting to a limited liability partnership, "convert", means a transfer of the property, assets, interests, rights, privileges, liabilities, obligation and the undertaking of the partnership to the limited liability partnership in accordance with the Second Schedule of the Limited Liability Partnership Act 2011.
12. In case there is a merger of a firm and conversion with LLP and vice-versa, seniority may be provided to the surviving entity as per policy as per ICPAK Guidance on Merger of Firms.
13. The provisions of the Accountants Act, 2008, the Institute's by-laws and regulations and the Code of Ethics issued by ICPAK shall be applicable to all partners of the converted CPA firms into LLPs jointly and severally.
14. Subject to paragraph 12 of the second schedule to the LLP Act, the new LLP shall be required to obtain a new licence from ICPAK to give effect to paragraphs 5 to 11 in respect of any existing contractual engagements.
Wherever the existing partnership firm has been appointed as statutory auditor of any company after following the due procedure under the Companies Act, 2015 and the said firm is converted into an LLP after complying with the relevant provisions of the LLP Act 2011, then the same firm will continue and the Board of Directors of the Company may take on record through resolution the conversion of the CPA firm into an LLP and the new LLP shall be deemed to be the Auditor of the said company for the said financial year.

III. Constitution of separate LLPs

15. All members of ICPAK in practice who want to constitute separate LLPs are required to follow the provisions of the Limited Liability Partnership Act, 2011 read with the LLP Regulations 2014 and the Institute's by-laws.
16. For purposes of ICPAK by-law No. 36, and subject to the LLP Regulations, 2014, No. 4 (b) and 5 (m), if the proposed name of LLP includes the words 'Certified Public Accountants' or designation "CPA", or any name that implies practice of accountancy, as part of the proposed name, the same shall be referred to the Institute of Certified Public Accountants of Kenya (ICPAK) by the Registrar of LLPs and it shall be allowed by the Registrar only if the RQAC of ICPAK approves it.
17. If the proposed name of an LLP of a CPA firm resembles any other non-CPA entity, the proposed name of the LLP of the CPA firms may include



the word 'Certified Public Accountants' in the name of the LLP itself and the Registrar **may** allow the same name, subject to Section 21 of the LLP Act and (15) referred above.

18. For the purpose of registration of LLP with ICPAK, the partners of the firm shall apply in ICPAK Form No. 'C' and the ICPAK Form No. 'D' along with copy of name registration received from the Registrar of LLPs and submit the same to ICPAK. These Forms shall contain all details of the offices and other particulars as called for together with the signatures of all partners or authorized partner of the proposed LLP.
19. The following guidelines relating to seniority and other criteria shall be followed for registration of LLPs with ICPAK.
 - 19.1. Inter-se seniority among the firms shall be given to LLPs as per existing policy of ICPAK. In other words, LLPs shall carry the same seniority as the firms shall otherwise have under the existing policy of ICPAK. In case of a merger of two LLPs, the same rules as applicable to firms merging shall apply.
 - 19.2. The name of the LLP shall comply with ICPAK By-law No. 36.
 - 19.3. The newly constituted CPA LLPs registered with ICPAK shall be allowed to work only in terms of the Accountants Act, 2008 and the object of the LLP to be incorporated in Form LL1 and/or Form LLP5 of the LLP Regulations, 2014 or in LLP agreement, shall be in the nature of Professional Services allowed under the Accountants Act, 2008. LLPs shall be subject to the same regulations, as if they were a general partnership firm. Mere conversion into an LLP does not give any privileges, which were not earlier with the CPA firms.
20. These guidelines of conversion of CPA firms into LLP shall also be applicable to the conversion of proprietary firm into LLP subject to the provisions of LLP Act and Regulations framed there under. The conversion of proprietary firm shall be by way of incorporation of new LLPs.
21. The registration number of an LLP with ICPAK, shall be the LLP registration number as issued by the Registrar with an additional reference number being allotted to the firms by ICPAK.
22. Introduction of LLPs, shall not affect the existing regulations in force as regards Name allotment to certified public accountants' firms.
23. The provisions of the Accountants Act, 2008, the by-laws and the Code of Ethics issued by ICPAK shall be applicable to all partners of the LLP jointly and severally.
24. In case of any dispute in respect of these guidelines, the same shall be referred to the Registration and Quality Assurance Committee (RQAC) of the Institute and the decision of the committee shall be final and binding on the members of the Institute.



25. For the purpose of any clarification regarding the approval and registration of proposed LLPs with ICPAK, the requests can be sent to the following address: -

Chief Executive & Secretary to the Council
Institute of Certified Public Accountants of Kenya
P.O. Box 59963-00200
Nairobi – Kenya

26. These Guidelines came into force on **1 January 2019.**

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