

THE FINANCIAL SERVICES SEMINAR

Presentation by:

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Theme



"Implementation of improved internal operations in line with regulatory Compliance".

Areas of Discussion



1. Deep dive into the various **regulatory returns** and the key requirements to be submitted.

2. Navigating through the regulatory governance and Fit and Proper requirements- Which way forward?

Session



Regulatory
Returns and the
key requirements
to be submitted. -

Regulatory Guidelines - Explainer



- Financial regulation refers to the rules and laws firms operating in the financial industry must follow.
- Financial regulation is part of ensuring the safety and soundness of the financial system and protecting consumers.

Financial Regulatory Landscape



| N/A | Regulator | AREAS OF FOCUS | ACTS & REGULATIONS |
|-----|---------------------------------------|---|--|
| 1. | Central Bank of Kenya (CBK). | Commercial Banks, Deposit Taking Microfinance, Credit Reference Bureaus, Forex Bureaus. | -CBK Act Cap 491 -Banking Act Cap 488 -The MF Act,2006 -The Banking(Credit Reference Bureaus)Regulations 2008Forex Bureaus guidelines ,2011 |
| 2. | Capital Market Authority (CMA). | Investment Banks, Stock Brokers, Nairobi Securities Exchange, Placement and initial and secondary offers | -CM Act Cap 485A -CM Regulations 2002- 2011 |
| | | | |

Financial Regulatory Landscape



| N/A | Regulator | AREAS OF FOCUS ACTS & REGULATION | |
|-----|---|---|---|
| 3 | Retirement Benefit Authority (RBA). | Pension Schemes | -RB Act Cap 197 RB Regulations ,2000,2007, 2009 |
| 4. | Insurance Regulatory Authority (IRA) | Insurance Companies and Insurance Brokers | -Insurance Act Cap 487 and Regulations |
| | | | |

Financial Regulatory Landscape



| N/A | Regulator | AREAS OF FOCUS | ACTS & REGULATIONS |
|-----|--|--|--|
| 5. | SACCO Societies Regulatory Authority (SASRA) | Deposit Taking SACCOs Non – Deposit Taking SACCOs with Non withdrawable deposits over 100M | -SACCO Societies Act , 2008 -SACCO Societies (Deposit Taking SACCO Business)Regulations 2010 -SACCO Societies (Non -Deposit Taking SACCO)Regulations 2020 |
| | | | |

How does the new regulatory framework affect SACCOs?



- The new legal framework, comprising of the SACCO Societies Societies Act of 2008, ("the Act") and the SACCO Societies (Deposit-taking SACCO Business) Regulations of 2010, ("the Regulations"), currently applies to SACCO societies ("SACCOs") that conduct deposit-taking business as defined in the law.1 That is SACCOs operating Front Office Savings Activities ("FOSA") only.
- The Sacco Societies (Non-Deposit-Taking Business)
 Regulations, 2020- That is SACCOs operating Back Office Savings Activities ("BOSA") only.

Regulatory Returns For SACCOs



| FORM | CODE | REPORT | DUE DATE |
|--------|------------|--|--|
| Form 1 | SASRA1/001 | CAPITAL ADEQUACY RETURN | 15 th of next month |
| Form 2 | SASRA1/002 | LIQUIDITY STATEMENT (comp every Wednesday) | 15 th of next month |
| Form 3 | SASRA1/003 | STATEMENT OF DEPOSIT RETURN | 15 th of next month |
| Form 4 | SASRA1/004 | RISK CLASSIFICATION OF ASSETS AND PROVISIONING | Quartely |
| Form 5 | SASRA1/005 | INVESTMENT RETURN | Quarterly |
| Form 6 | SASRA1/006 | STATEMENT OF FINANCIAL POSITION | Quarterly & Within 3 months of next year |
| Form 7 | SASRA1/007 | STATEMENT OF COMPREHENSIVE INCOME | Quarterly & Within 3 months of next year |
| Form 8 | SASRA1/008 | OTHER DISCLOSURES | On need basis |

Capital Adequacy Return



SACCO shall maintain adequate capital:

Core capital of ten million shillings for a SACCO establishing a FOSA.

That with FOSA;

- √ Core capital of 10 % of total assets
- ✓ Core capital of 8 % of total deposits
- ✓ Institutional capital of 8% of total assets
- ✓ A SACCO may be required to increase its capital due to losses, Higher risk, poor quality assets, Rapid growth

Liquidity statement



Total liquid assets/ (Total deposits and ST Liabilities)

- Formulate Liquidity and asset liability management, be reviewing and adjusting its liquidity policy annually
- The cash holding limit
- Contingency plans



Risk classification and provisioning



Guides on risk assessment, delinquency and requisite provisioning for loans

- Loan is **Delinquent** if not serviced on due dates.
- Categories of loan classification- There are five categories
- ✓ Performing –well paid as per terms
- ✓ Watch-unpaid for up to 30 days
- ✓ Substandard-unpaid for up to 180 days
- ✓ Doubtful-unpaid up to 360 days
- ✓ Loss-unpaid for over 360 days
- Accrued interest-Interest on substandard, doubtful and loss loans shall be suspended.
- Collaterals to be charged
- Return filed quarterly



Risk classification and provisioning



Performing-1%
Watch- 5 %
Substandard-25%
Doubtful-50%
Loss-100%



- Loan write off- loan may be written off if the SACCO loses contractual rights over the loan eg the Court ruling against the SACCO, or collateral failing to cover the loan or member is judged bankrupt.
- Shall be made to the Authority every quarter.

Investment Return



- A SACCO shall not make financial investments in non government securities in excess of 40% of its core capital or 5% if its deposits.
- Purpose of investments- To hold to maturity the financial investments and not to trade the securities for profits.
- Restricted investments- A SACCO may not sell, lease premises to or from board, employees, or family or businesses where they have interests.
- The SACCO shall submit a return on its investments to the Authority every quarter.

Investment Return



Develop investment policy, Guide investment from non earning assets, restrictions.

- Investment policy-The board shall formulate and be reviewing it regularly. It shall state the following: Objectives of the investment activities, Types of investments that can be made, persons authorized to make investments
- Limitation from investing in property or non earning assets not in excess of 10 % of total assets.
- Investments in Land and buildings shall not exceed 5% unless a waiver is given by the Authority.

Financial Performance Reporting



- Establish internal audit function and internal audit committee reporting to board
- Appointment of external auditor, name submitted to Sasra within 30 days of AGM, removal must be sanctioned
- Submission of audited financial statements- submitted to SASRA within 3 months after the end of the financial year and before presentation to the AGM. Unaudited Financial statements also submitted monthly.
- **Display of the accounts-** The accounts, after approval shall be displayed in prominent places including the SACCOs website, approved by AGM within 4 months of year end.
- External auditor to report irregularities to SASRA

Financial Performance Reporting



- Statement of comprehensive income
- Statement of financial position
- disclose any material amount written off with a resolution of the general meeting of the Sacco Society accompanied by satisfactory explanation;
- A signed statement of directors' responsibility;
- The auditor's opinion (include key audit matters);
- Statistical information;
- Cash flow statement;
- Statement of changes in equity



Other Disclosures



- Solvency position of the society
- Non performing loans
- Insider loans and other activities
- Off balance sheet items like guarantees
- Capital strength
- Liquidity
- Statement of Corporate governance

Session



Regulatory Governance and Fit and Proper requirements



- The "fit and proper test")make reference to requirements for evaluating managers and Directors.
- Particularly, the ability to fulfill their duties ("fitness") as well as their integrity and suitability ("propriety") are examined.



 Fit and proper test: Both directors and senior management (or departmental heads) will be subject to a "fit and proper" test, vetting their moral and professional suitability to be on the board and to manage the SACCO society, respectively.



On the other hand, Integrity and suitability analyze aspects such as criminal records, financial position, civil actions against third parties, sanctions applied by regulators of other similar industries, questionable business practices and rejection or expulsion from professional associations.



- This concept is a standard in corporate governance of financial institutions.
- Fitness requirements take into consideration formal qualifications, previous experience and career.

Guiding principles



The guiding principles of leadership and integrity -Chapter 6 of the Kenyan Constitution 2020

- a) Selection on the basis of personal integrity, competence and suitability, or election in free and fair elections.
- b) Objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices.
- (c) **Selfless service** based solely on the public interest, demonstrated by—
- (i) honesty in the execution of public duties; and
- (ii) the declaration of any personal interest that may conflict with public duties
- (d) Accountability to the public for decisions and actions.
- (e) Discipline and Commitment in service to the people.

Areas of Disclosure- Examples



- Personal information
- Academic and professional record
- Probity, competence and soundness of judgement.
- ✓ Have you been dismissed from any office or employment, or been subjected to disciplinary proceedings by your employer or barred from entry to any profession or occupation?
- ✓ Has an adverse finding been made against you at any time in any civil or criminal proceedings by a court of law (whether in the Republic of Kenya or elsewhere) in which you were found to have acted fraudulently, dishonestly, unprofessionally, dishonorably or in breach of a fiduciary duty?

Areas of Disclosure- Examples



- Diligence with respect to the proposed role.
- ✓ Would you confirm that if appointed as a director of the Company that you will undertake your role diligently, in accordance with the duties of a director under the law and that you will do so without reservation?
- Whether interests of customers may be threatened by virtue of past convictions or offences.
- Contravention of laws designed to protect members of the public
- ✓ Have you at any time ever been found to have contravened the
 provision of any law designed for the protection of members of the
 public against financial loss due to dishonesty or incompetence of,
 or malpractice by, persons engaged in transactions with marketable
 securities?

Areas of Disclosure- Examples



- Liquidation or statutory management
- ✓ Have you ever been a director /Manager of a brokerage firm that has been liquidated or has been under liquidation or statutory management?
- Improper business practices
- ✓ Have you ever taken part in or been associated with any business practice that is fraudulent, prejudicial or which otherwise could be viewed to have discredited your methods of doing business? If so give particulars:

WAYFORWARD



- 1. Create a vision for your future
- 2. Understand yourself and how you are perceived
- 3. Continuous Career Development To improve your competency skills
- 4. Maintain High moral Standards Walk the talk
- 5. Develop your personal story What legacy do you want to leave?
- 6. Manage your online presence Be purposeful and cautious in what you share in the social platforms.



Q&A



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