

Approved for tabling *[Signature]*
SNA

15/11/16

Robert Wanjau
By the way
Chairperson
Hon. Karekei
Member
15-11-2016
[Signature]

REPUBLIC OF KENYA

PARLIAMENT
OF KENYA
LIBRARY



NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FOURTH SESSION

THE DEPARTMENTAL OF COMMITTEE ON AGRICULTURE LIVESTOCK AND
COOPERATIVES

REPORT ON THE CONSIDERATION OF THE SACCO SOCIETIES
(AMENDMENT) BILL, 2016

CLERKS CHAMBERS
DIRECTORATE COMMITTEE SERVICES
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER, 2016

ABBREVIATIONS

KUSCCO - Kenya Union of Saving and Credit Cooperatives

KERUSSU - Kenya Rural Savings and Credit Co-operatives Societies Union

SASRA - Sacco Societies Regulatory Authority

2.0 EXECUTIVE SUMMARY

The Sacco Societies amendment Bill (hereinafter referred to as the Bill) seeks to introduce new clauses 27A and 27B which obligates all Saccos and Co-operative societies licensed under the Act or registered as deposit-taking savings and credit co-operatives to incorporate as part of their business name and use at all times the words “Deposit-Taking Sacco”, DTS, DT-SACCO or any of its derivatives. The amendment seeks to prohibit Saccos that are registered as non-financial Saccos from providing financial services to the unsuspecting customer. This makes it easier for members of the public to be aware of the licensed saccos or co-operatives that offer quasi-banking facilities.

The Bill proposes to introduce new clause 48 that gives power to the Authority to determine the suitability and propriety of every person seeking to serve as a director or other officer of a Sacco society and may bar that person from serving in a Sacco Society. The clause also provides for the parameters the Authority shall consider in determining the suitability of a person. The amendment envisages that the Authority shall vet key officers of SACCOs, through the “Fit & Proper Test” form provided in the Regulations by providing for minimum criteria for assessing the fitness and propriety of senior officers of SACCOs, which includes the members of Board of Directors.

The Bill proposes to amend section 50 of the Act by substituting it with a new subsection (8) that gives power to the Authority to impose minimum standards on significant members and officers of a Sacco Society as prescribed including mandatory continuous or minimum professional development courses, trainings and certification. This amendment seeks to enable the Authority improve the quality and relevance of the trainings, to develop an enlightened and responsible leadership and management capable of directing and effectively controlling Sacco enterprises for the benefit of members.

Finally, the Bill proposes to amend section 54 to allow Sacco Societies to exchange information on performing and non-performing loans as maybe prescribed by the authority in the manner prescribed by the Banking Act. The import of this amendment is that both negative and positive credit information will be circulated amongst licensed financial institutions e.g the credit reference bureaus and if shared, it will enhance efficiency and reduce on systemic risks.

4.0 OVERSIGHT

In executing its mandate as provided for under the National Standing Orders, the Committee oversees the following government departments and agencies. They are-

- (a) The State Department of Agriculture;
- (b) The State Department of Livestock;
- (c) The State Department of Fisheries;
- (d) The State Department of Co-operatives; and
- (e) The State Department of Irrigation.

6.0 COMMITTEE SECRETARIAT

- | | |
|--------------------------|-------------------------|
| 1. Mr. Benjamin Magut | - First Clerk Assistant |
| 2. Ms. Brigitta Mati | - Legal Counsel |
| 3. Mr. Ahmad Adan Guliye | - Third Clerk Assistant |
| 4. Ms. Naserian Lotuai | - Third Clerk Assistant |
| 5. Mr. David Ngeno | - Research Officer |
| 6. Mr. Elijah Ichwara | - Audio Officer |
| 7. Ms. Zeinabu Wario | - Sergeant at Arms |

(iii) in sub-clause (4) by deleting the words “Deposit-Taking Sacco”, “DTS”; appearing therein.

Justification

To conform to other proposed amendments in the proposed new clause 27A

Clause 3

That clause 3 of the Bill be amended in the proposed new section 48A by deleting subclause (3) paragraph (iii) and substituting therefor the following-

(iii) was a director of a Sacco society which was involuntarily liquidated, is under involuntary liquidation or has been placed under statutory management;”

Justification

There are some liquidation that are voluntary hence not proper to punish one for voluntary liquidation.

Clause 4

That clause 4 of the Bill be deleted.

Justification

The matter was deemed to have been considered under section 50(8) of the principal Act and section 48 A (2)(b) of the proposed bill.

Clause 5

That clause 5 of the Bill be amended by deleting paragraph (a) and substituting the following new paragraph

(a) in subsection (5) by deleting paragraph (b) and substituting therefor the following new paragraph (b)

“(b) Sacco societies may, in the ordinary course of business and in such manner and to such extent as may be prescribed under the Banking Act, exchange such information on performing and non- performing loans as may be specified by the Authority from time to time.”

Justification

The amendment seeks to introduce credit information sharing with Banks, micro-finance banks and public utility companies. The intention was not to delete the entire section 54(5) but only delete paragraph (b) and substitute as provided above.

prescribed shall stop using the words “Deposit-Taking Sacco”, “DTS” “DTS-SACCO” or any of its derivatives and failure to comply is an offence.

Clause 3 of the Bill proposes to give the Authority powers to determine the suitability and propriety of any person proposed to act as a director or officer of a Sacco society. The provision further prescribes the factors for consideration in the said determination including the financial status or insolvency of a person, the academic qualifications or other qualifications or experience of the person, the reputation, character and financial integrity and reliability of the person.

Subclause (3) also expounds on other matters which the Authority may take into account when determining the suitability and propriety of any person proposed to act as a director or officer of a Sacco society but further provides that the person in question shall be offered an opportunity to be heard by the Authority.

Clause 4 of the Bill proposes to amend section 50 of the Act to give the Authority powers to prescribe minimum standards on significant members of a Sacco society including continuous professional development, trainings, courses and certification necessary for one to serve as a director of a Sacco society.

Clause 5 of the Bill seeks to amend section 54 to, as prescribed in the Banking Act, require Sacco societies exchange information on performing and non-performing loans as specified by the Authority from time to time. This differs from the current provision that requires the Cabinet Secretary to prescribe in regulations, the manner and extent of exchange of information on non-performing loans.

However, the amendment takes away the provision enabling Authority to disclose information received by it under the Act to any financial regulatory authority, tax authority, fraud investigations authority or pursuant to a court order, within or outside Kenya, where such information is reasonably required for the proper discharge of the functions of the Authority or the requesting financial regulatory authority, tax authority, investigation authority or court. It is notable nonetheless that there is a proposed amendment to Section 50 (6) to the effect that a Sacco society or its officers are not deemed to be in breach of duties due to a disclosure of information to an institution licensed under the Banking Act, Microfinance Act or any other entity as may be provided for under a written law.

9.2 Submission by State Department for Co-operatives under the Ministry of Industry, Trade and Co-operatives

The Principal Secretary for State Department of Co-operative Development, Ministry of Industry, Trade and Co-operatives Mr. Ali Noor Ismail presented on the following on behalf of the Ministry-

- There is need to enhance the governance structure of the cooperative societies;
- Ministry is committed to creating an enabling environment for the Saccos because it creates jobs for the Kenyan people and has over 800 million shillings in terms of assets;
- Deletion of clause 2 of the Bill needs to be deliberated on further;
- Sasra deals with the deposit taking Sacco of about 177 in number with prudential guidelines; the application of the stringent criteria may kill many Saccos hence the Ministry needs to nurture the (young) Saccos to ultimately become deposit taking saccos; and
- Under Clause 3, the board of directors and senior management in Banks are subjected to fit and proper test. It is therefore proper for Directors and other officers serving in Sacco's to be subjected to the same test.

9.3 Submission by the other Sacco Societies and Stakeholders (KUSCCO and KERUSSU)

- DTS faces competition from banks and other non-banking financial sectors leaving Saccos to fight for their space. It prudent to bring policy reforms that address the issues. The policy comes from the merging of the Saccos (small Saccos);
- The use of the word DTS is defeatist in that section 2 of the Act defines what a deposit taking business is and all Saccos take deposits;
- There is need for a shared branch for Saccos or infrastructure i.e creation of a legal framework to support such a system e.g kenswitch in ATMs for banks;
- Saccos undertaking front office operations should show that they are licensed by Sasra in their business name;
- The stakeholders suggested that Clause 3 of the Bill should be deleted. Stakeholders were of the view that the Authority should not determine whether a person is fit and proper to serve as a director or an officer of a Sacco Society. The suggested

10. COMMITTEE OBSERVATIONS

The Committee while considering the Bill observed the following-

Clause 2

- The proposal to delete the proposed new section 27 A to enable further discussion on the same with the permanent Secretary responsible for Co-operatives was not practical. Members felt that there is need to protect the word “Sacco” and the same cannot come under regulations as suggested. The Committee appreciated the fact that there was need to differentiate Sacco’s that offer Front Office Services and Back Office Services.
- The Committee observed that all Sacco’s should be deposit taking Sacco’s and thus regulated by Sasra. Any deposit taking Sacco whether small (growing) should be under the regulatory Authority;
- Registration of Sacco’s is done by the Commissioner of Co-operatives and as such Section 27B should be reworded to remove the function of registration of Sacco’s by the Authority.

Clause 3

- The Committee observed that the Authority (SASRA) must be given legal capacity to vet directors of a deposit taking Sacco. Therefore the suggestion on 48A to read ‘The Authority may determine the suitability....’ is to be rejected because it does not give the regulator full mandate to regulate the Saccos as it should;
- The Committee noted that ‘academic qualifications or other qualifications’ in paragraph (b) was not defined and should be further clarified under regulations;
- The meaning of the use “other officers” means those who take part in the overall direction of the Sacco and as defined under section 2 of the Sacco Societies Act; such officers form an integral part of the decision making of a Sacco and should be vetted.

Clause 5

The committee noted that the amendment to clause 54 takes away the provision enabling Authority to disclose information received by it under the Act to any financial regulatory authority, tax authority, fraud investigations authority or pursuant to a court order, within or outside Kenya, where such information is reasonably required for the proper discharge of the functions of the Authority or the requesting financial regulatory authority, tax authority, investigation authority or court.

(iii) in subclause (4) by deleting the words “Deposit-Taking Sacco”, “DTS”; appearing therein.

Justification

To conform to other proposed amendments in the proposed new clause 27A

Clause 3

That clause 3 of the Bill be amended in the proposed new section 48A by deleting subclause (3) paragraph (iii) and substituting therefor the following-

(iii) was a director of a Sacco society which was involuntarily liquidated, is under involuntary liquidation or has been placed under statutory management;”

Justification

There are some liquidation that are voluntary hence not proper to punish one for voluntary liquidation.

Clause 4

That clause 4 of the Bill be deleted.

Justification

The matter was deemed to have been considered under section 50(8) of the principal Act and section 48 A (2)(b) of the proposed bill.

Clause 5

That clause 5 of the Bill be amended by deleting paragraph (a) and substituting the following new paragraph

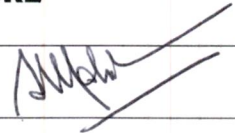
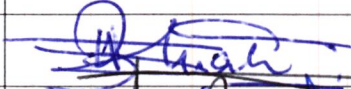

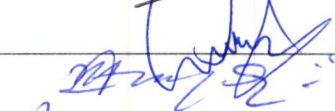
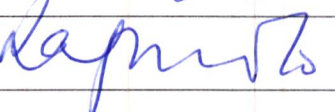

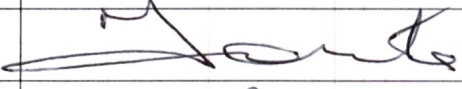
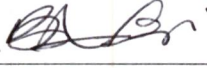

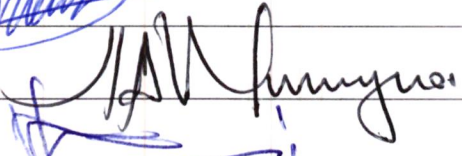
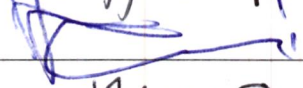
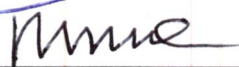
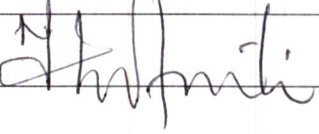
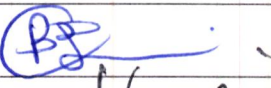
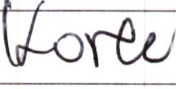
(a) in subsection (5) by deleting paragraph (b) and substituting therefor the following new paragraph (b)

“(b) Sacco societies may, in the ordinary course of business and in such manner and to such extent as may be prescribed under the Banking Act, exchange such information on performing and non- performing loans as may be specified by the Authority from time to time.”

Justification

The amendment seeks to introduce credit information sharing with Banks, micro-finance banks and public utility companies. The intention was not to delete the entire section 54(5) but only delete paragraph (b) and substitute as provided above.

ADOPTION LIST FOR THE COMMITTEE REPORT ON CONSIDERATION OF SACCO SOCIETIES (AMENDMENT) ACT ,2016 ON THURSDAY 13TH OCTOBER, 2016

NO	NAME	SIGNATURE
1	The Hon. Adan Mohamed Nooru, CBS, MBS,MP	
2	The Hon. Japhet M. Kareke Mbiuki, M.P.	
3	The Hon. Benjamin Jomo Washiali, M.P	
4	The Hon. John Bomett Serut, M.P.	
5	The Hon. KabandoWa Kabando, M.P.	
6	The Hon. (Dr.) Victor K Munyaka, M.P.	
7	The Hon. Raphael Letimalo, M.P.	
8	The Hon. Millie Odhiambo, M.P.	
9	The Hon. Fredrick Outa, M.P.	
10	The Hon. Benjamin Andayi, M.P.	
11	The Hon. Mary Wambui Munene, M.P.	
12	The Hon. Francis Munyua Waititu, M.P.	
13	The Hon. Peter Njuguna Gitau, M.P.	
14	The Hon. Maison Leshoomo, M.P.	
15	The Hon. Anthony K. Ichung'wah, M.P.	
16	The Hon. Aisha Jumwa, M.P.	
17	The Hon. Patrick Wangamati, M.P.	
18	The Hon. Maanzo, Daniel Kitonga, M.P.	
19	The Hon. Justice Kemei, M.P.	
20	The Hon. Korei Ole Lemein, M.P.	

Kenya National Assembly Secretariat

- | | |
|--------------------------|-------------------------|
| 1. Mr. Benjamin Magut | - First Clerk Assistant |
| 2. Mr. Ahmad Adan Guliye | - Third Clerk Assistant |
| 3. Ms. Angeline Naserian | - Third Clerk Assistant |
| 4. Mr. David Ngeno | - Research Officer |
| 5. Mr. Abidinasir Moge | - Budget Officer |
| 6. Ms. Zeinabu Wario | - Sergeant at Arms |

Min. 220/2016: Preliminaries

The meeting was called to order at 10.45 a.m and prayers were said by Hon. Kabando Wa Kabando, M.P

Min. 221/2016: Confirmation of the Previous Minutes

The minutes of the sitting held on Tuesday 11th October 2016 were confirmed as true record of the Committee's proceeding after it was proposed and seconded by Hon. Patrick Wangamati, M.P and Hon. John Serut, M.P.

Min. 222/2016: Matters Arising

Under min. 217/2016

The Committee resolved to invite the officials of the Meru South Cooperative Savings and Credit Society Ltd on Tuesday the following week and afterwards invite the CEO Cooperative Bank of Kenya and the Principal Secretary, State Department of Cooperatives with regard the petition before the Committee.

Under min. 218/2016

The Committee resolved to visit Samburu County from 26th to 29th October 2016 subject the Speaker's permission being granted.

Min.223/2016: Adoption of the report on the Sacco Societies Amendment Bill, 2016

The Committee adopted the following amendments to the Sacco Societies Amendment Bill, 2016

Clause 2

That clause 2 of the Bill be amended-

(a) in the proposed new clause 27 A-

(i) in sub clause (1) by deleting the words "the words "Deposit-taking Sacco", "DTS", "DT-SACCO" and substituting therefore the words "the phrase "DT-SACCO";

Justification

To have a standard word "DT-Sacco" as a unique identifier and part business name for Deposit-Taking Saccos

(ii) in sub clause 2 paragraph (a) by deleting the words " the words Deposit-taking Sacco", "DTS" and substituting therefor with the words

(a) The phrase "DT-SACCO" or any of its derivatives; or

Justification

This amendment is as a consequence to the amendment in subclause (1).

NB: (there is a proposal that instead of DT-Sacco, it should be renamed as DTW-Sacco...subject to further consultations)

(b) in the proposed new clause 27 B-

(i) by deleting in sub clause (1) the words "or incorporated "appearing there in

Justification

Saccos are registered under the cooperative societies Act and not incorporated. It was acknowledged that the Authority needs to have a say on any cooperative societies that seeks do to deposit taking business which is the regulated business.

(ii) by deleting in sub clause (2) the words "or incorporated "appearing there in:

Justification

Saccos are registered under the cooperative societies Act and not incorporated. It was acknowledged that the Authority needs to have a say on any cooperative societies that seeks do to deposit taking business which is the regulated business.

(iii) in subclause (3) by deleting the words "Deposit Taking-Sacco, DTS, " appearing therein

Justification

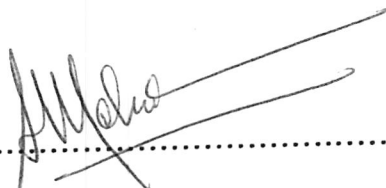
To conform to other proposed amendments in the proposed new clause 27A

The amendment seeks to introduce credit information sharing with Banks, micro-finance banks and public utility companies. The intention was not to delete the entire section 54(5) but only delete paragraph (b) and substitute as provided above.

Min. 224/2016: Adjournment

There being no other business to discuss, the meeting was adjourned 12.51 p.m.

Signature



HON. ADAN MOHAMED NOORU, MBS, CBS, M.P.

(Chairperson)

Date.....

18. 10. 2016

MINUTES OF THE 46th SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (Meeting with the Stakeholders on the Sacco Societies Amendment Bill, 2016) HELD ON THURSDAY 18th AUGUST 2016, IN 2nd FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 A.M.

Present

1. Hon. Adan Mohamed Nooru, MBS, CBS, M.P - Chairperson
2. Hon. Kareke Mbiuki, M.P
3. Hon. Benjamin Washiali, M.P
4. Hon. John B. Serut, M.P
5. Hon. (Dr.) Victor Munyaka, M.P
6. Hon. Raphael Letimalo, M.P
7. Hon. Kabando Wa Kabando, M.P
8. Hon. Millie Odhiambo - Mabona, M.P
9. Hon. Daniel Maanzo, M.P
10. Hon. Ferdinand Wanyonyi, M.P
11. Hon. Mary Wambui, M.P
12. Hon. Silas Tiren, M.P
13. Hon. Korei Lemein, M.P
14. Hon. Maison Leshoomo, M.P
15. Hon. Waititu Munyua, M.P
16. Hon. Peter N. Gitau, M.P

Apologies

1. Hon. Florence Mutua, M.P
2. Hon. Kimani Ichung'wah, M.P
3. Hon. Fredrick Outa, M.P
4. Hon. Justice Kemei, M.P
5. Hon. Paul Simba Arati, M.P
6. Hon. Patrick Wangamati, M.P
7. Hon. Hezron Awiti Bollo, M.P
8. Hon. Aisha Jumwa, M.P
9. Hon. John Kobado, M.P
10. Hon. Alfred K. Keter, M.P
11. Hon. Ayub Savula Angatia, M.P.
12. Hon. Benjamin Andayi, M.P
13. Hon. Jude Njomo, M.P

Committee Observation

The Committee noted that the stakeholders themselves held divergent opinions with regard to the Bill and the need was need for consensus building.

In this regard, the Committee resolved to hold a retreat with all the stakeholders in order to come up with agreed and acceptable amendments to the Sacco Societies (Amendment) Bill 2016.

Min. 197/2016: Adjournment

There being no other business to discuss, the meeting was adjourned at 12.37 p.m.

Signature 

HON. ADAN MOHAMED NOORU, MBS, CBS, M.P.

(Chairperson)

Date..... 4/10/2016

MINUTES OF THE 44th SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (Consideration of the SACCO Societies, Amendment Bill, 2016) HELD ON TUESDAY 9th AUGUST 2016, IN 5th FLOOR CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 A.M.

Present

1. Hon. Kareke Mbiuki, M.P - Chairing
2. Hon. Benjamin Washiali, M.P
3. Hon. John B. Serut, M.P
4. Hon. (Dr.) Victor Munyaka, M.P
5. Hon. Raphael Letimalo, M.P
6. Hon. Patrick Wangamati, M.P
7. Hon. Daniel Maanzo, M.P
8. Hon. Ferdinand Wanyonyi, M.P
9. Hon. Mary Wambui, M.P
10. Hon. Kabando Wa Kabando, M.P
11. Hon. Silas Tiren, M.P
12. Hon. Jude Njomo, M.P
13. Hon. Peter N. Gitau, M.P
14. Hon. Waititu Munyua, M.P
15. Hon. Korei Lemein, M.P
16. Hon. Paul Simba Arati, M.P

Apologies

1. Hon. Adan Mohamed Nooru, MBS, CBS, M.P
2. Hon. Maison Leshoomo, M.P
3. Hon. Justice Kemei, M.P
4. Hon. Fredrick Outa, M.P
5. Hon. Kimani Ichung'wah, M.P
6. Hon. Millie Odhiambo - Mabona, M.P
7. Hon. Florence Mutua, M.P
8. Hon. Hezron Awiti Bollo, M.P
9. Hon. Aisha Jumwa, M.P
10. Hon. John Kobado, M.P
11. Hon. Alfred K. Keter, M.P
12. Hon. Ayub Savula Angatia, M.P.
13. Hon. Benjamin Andayi, M.P

- IV. The Bill proposes to amend section 54 to allow Sacco Societies to exchange information on performing and non-performing loans as maybe prescribed by the authority in the manner prescribed by the Banking Act.

Committee Observation

After the SASRA Officials made their comments on the Bill, the Committee made the following observation;

- I. The first amendment seeks to prohibit Saccos that are registered as non-financial Saccos from providing financial services to the unsuspecting customer. This makes it easier for members of the public to be aware of the licensed saccos or co-operatives that offer quasi-banking facilities.
- II. The second amendment envisages that the Authority shall vet key officers of SACCOs, through the "Fit & Proper Test" form provided in the Regulations by providing for minimum criteria for assessing the fitness and propriety of senior officers of SACCOs, which includes the members of Board of Directors.
- III. The third amendment seeks to enable the Authority improve the quality and relevance of the trainings, to develop an enlightened and responsible leadership and management capable of directing and effectively controlling Sacco enterprises for the benefit of members.
- IV. The import of this amendment is that both negative and positive credit information will be circulated amongst licensed financial institutions e.g the credit reference bureaus and if shared, it will enhance efficiency and reduce on systemic risks.
- V. The Committee resolved to undertake a public hearing on the Bill and afterwards invite the Ministry for their inputs.

Min. 190/2016: Any Other Business (A.O.B)

The Committee resolved to undertake a field visit to Eldoret in response to the petition on substandard subsidized fertilizer between 21st to 24th August 2016.

Min. 191/2016: Adjournment

There being no business to discuss, the meeting was adjourned at 12.00 p.m.



KUSCCO LTD.
Kenya Union of Savings & Credit Co-operatives Ltd.

-The SACCO Family Union-

② MAHUT
pls deep
FA
1/18

2079

KUSCCO Centre
Kilimanjaro Avenue, Upper Hill
P.O. Box 28403 - 00200, Nairobi, KENYA
Tel: 020 -2730191 / 2722927
Fax: 020 -2721274
Cell: 0734 699 974 / 0722 206 331
Email: info@kuscco.com
Web: www.kuscco.com

Our Ref: **KUSCCO/ADV/MOIT & C/717**

9TH AUGUST, 2016

Your Ref:

The Clerk of the National Assembly,
Parliament Buildings,
P. O. Box 41842 - 00100,
NAIROBI.

DD/Committee



Dear Sir,

RE: PROPOSALS ON THE SACCO SOCIETIES (AMENDMENT) BILL, 2016

Receive compliments from the Board of Directors, Management and Staff of the Kenya Union of Savings and Credits Co-operatives (KUSCCO) Limited.

KUSCCO was established in 1973 as an umbrella body for all SACCOs in Kenya, responsible for speaking on behalf of SACCOs and representing them in business and legal requirements.

I wish to confirm that we held a stakeholder's meeting on 8th August 2016, at Laico Regency Hotel to discuss the above mentioned Bill. The meeting was attended by over 214 leaders, representing 176 SACCOs across the country. As SACCOs, we wish to reiterate our support for facilitative regulation of the sector to build market confidence. However, in the meeting, we made observations and resolved as follows:

- 1. That Section 27A- Use of the words 'Deposit -Taking SACCO' 'DT-SACCO', 'DTS' etc which reads, "A SACCO Society Licensed under this Act to undertake deposit-taking business shall incorporate, as part of its business name and use it at all times the words 'Deposit Taking SACCO', 'DTS', 'DT-SACCO' or any of its derivatives," be shelved.**

Comments

'SACCO Business' as defined in the SACCO Societies Act means 'receipt of withdrawable deposits or non-withdrawable deposits from members.....' This means that all SACCOs are deposit-taking. Further, there is no substantial felt need and persistent requests from the members of SACCOs to justify the need for this change and drift. The amendment applied a top-down approach rather than a bottom-up approach.

A change of name does not bring any distinction of SASRA regulated SACCOs and the non-regulated SACCOs. Further, name changing is a function of the registrar of co-operatives.

Proposal

Retain the identity of SACCOs as per the SACCO Act, 2008.

2. **That Section 4 which reads, “a deposit-taking SACCO Society licensed under this Act shall not amend its registered by-laws or any provisions thereof without the prior written approval of the Authority” should be amended.**

Comments

Stakeholders hold the view that a by-law creates co-operatives and as such, is the function of the registrar of co-operatives. Amendments of by-laws should first be submitted to the Commissioner of Co-operatives for approval and registration. Therefore, a deposit-taking SACCO can only *notify* the Authority that they have amended their by-laws. Refer to Co-operatives Societies Act, Cap 490, Part III, section 8.

Proposal: Amend to read “a deposit taking SACCO shall notify the Authority of amendments in its by-laws”

3. **That Section 27 B: *Registration and Licensing of deposit-taking SACCOs*, which reads:**
 1. **“A co-operative society shall not be registered or incorporated as a deposit-taking savings and credit co-operative society or deposit-taking SACCO society, without the written approval of the Authority.**
 2. **A co-operative society that has been registered or incorporated as a deposit-taking savings and credit co-operative society shall within one year of registration, obtain a license from the Authority to operate as a deposit-taking savings and credit co-operative society or a SACCO Society,” should be aligned to Cap 490 Laws of Kenya.**

Comments

The stakeholders observed that SACCOs are co-operatives registered by the Commissioner of Co-operatives and are specified as financial co-operatives. SASRA cannot promote, supervise and regulate, all at the same time, since there will be no oversight and will lead to double registration. Refer to Co-operatives Societies Act Cap 490, Part III, section 4. With these overarching powers, who will regulate the regulator?

Proposal

Let segregation of duty be maintained for governance purposes.

4. **That Section 3, amending Section 48 (2) (B), SACCO Societies Act, 2008 which reads “The Authority shall in determining if a person is suitable and proper to serve as a director or officer of a SACCO Society consider the following;-**

b) The other academic or other qualifications or experience of the person, having regard to the nature of the functions which the person shall perform.” The whole section should be deleted.

Comments

Directors go through the ‘fit and proper test’ according to Section 24 (f), of the SACCO Societies Act 2008. Further, directors are elected by members, who are the supreme decision makers in a SACCO.

Proposal

Replace the word ‘Authority ’with ‘Annual General Meeting (ÁGM)’ or ‘the Board’ ‘nominations committee’ which are the decision making organs of a SACCO.

- 5. That Section 4-Section 50 (8) which reads ‘the Authority may impose minimum standards on significant members and officers of a SACCO Society as prescribed including mandatory, continuous or minimum professional development courses, trainings and certification which every director or an officer of a SACCO society must undertake or attain before serving or seeking to serve as a director or officer of a SACCO society.’ This should be deleted. The Authority is to regulate and not train or recommend training of anybody.**

Comments

SACCOs belong to members and training needs assessment can be done by SACCOs.

Proposal

Minimum qualification of Form Four certificate except for Jua Kali and Farmer Based SACCOs.

- 6. That Memorandum of objects and reasons- *Statement of objects and reasons for the Bill* which states ‘the object of this Bill is to amend the SACCO Societies Act 2008, to provide for the registration and licensing of SACCO societies as deposit-taking savings and credit co-operatives.’**

Comments

Front Office business is a product in the SACCO and registration should be by the Commissioner. This is because SACCOs are financial co-operatives and are registered under the Co-operative Societies Act, Cap 490. Refer to Co-operatives Societies Act Cap 490, Part III, section 4.

Proposal

Replace the word ‘*registration*’ with ‘*regulation*’.

Finally, in areas where reference to a "Minister" is made, it should be substituted with the word "Cabinet Secretary."

Attached are previous proposals which we hereby forward to improve the Act and regulations of SACCOs.

With Co-operative Regards,

A handwritten signature in black ink, appearing to be 'George Ototo', with a long horizontal line extending to the right.

George Ototo
MANAGING DIRECTOR

CC: John Mwaka, Ag. Chief Executive Officer, SASRA

165

D/G...ndas

2064



KENYA RURAL SAVINGS & CREDIT CO-OPERATIVE SOCIETIES UNION LTD (KERUSSU LTD)

Homabay Flats, Rose Avenue Off Argwings Kodhek Road Hurlingham, P.O Box 2467-00200 Nairobi.
Tel: +254-20-2736373/ +254-0202587236/ +254-775868373 E-mail: kerussultd@yahoo.co.uk www.kerussultd.co.ke

2
MAGUI
plb deal
FA
11/8

9TH August, 2016.

CLERK OF THE NATIONAL ASSEMBLY,
P.O. BOX 41842-00100,
NAIROBI.

Dear Sir/Madam,

RE: SUBMISSION OF MEMORANDUM ON THE SACCO SOCIETIES (AMENDMENT) BILL 2016

The above subject matter refers,

Kenya Rural Sacco's Societies Union LTD (KERUSSU) here by submits the above stated document which is per The Kenya Gazette Supplement, National Assemblies Bills, 2016, Nairobi, 24th June, 2016.

KERUSSU is the National umbrella Body for Rural SACCO's in Kenya. The Union membership is made up of Cooperative Societies whose operations are largely based in rural areas of Kenya n bringing together Rural SACCO societies and other forms of Savings & Credit Associations (SACA's) with a total membership of over 2.5Million individual members.

KERUSSU membership leaders held a consultative meeting on 5th August, 2016 at The Luke Hotel-Nairobi and attached is a copy of the Memorandum citing relevant areas of concern as pertaining to the Sacco Societies (Amendment) Bill, 2016.

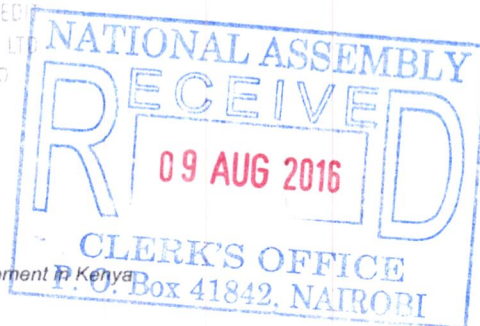
The Board and management further request for a hearing with the Departmental Committee on Agriculture, Livestock and Cooperatives to clarify on any issue that would not be clear.

With Cooperative regards.

Yours faithfully,

**MERCY M NJERU, HSC
MANAGING DIRECTOR**

KENYA RURAL SAVINGS AND CREDIT
CO-OPERATIVE SOCIETIES UNION LTD
P O Box 2467 - 00200
NAIROBI



WRITTEN MEMORANDUM BY THE KENYA RURAL SACCO SOCIETIES UNION (KERUSSU) ON THE SACCO SOCIETIES (AMENDMENT) BILL 2016.

PROPOSED AMENDMENTS TO THE SACCO SOCIETIES ACT

1. Insertion of Section 27A, 27B

27A (1),(2)&(3)-The words 'deposit-taking' are already provided for in Section 2 (interpretation) of the Sacco Societies Act and therefore not new in the Sacco sub-sector. Entrenching the words 'deposit-taking' as part and parcel of any Sacco licensed to carry out deposit-taking business is therefore not opposed. However, it must be remembered that this amendment will have a cost implication on Saccos since they have to change their names to reflect the directive.

27A(4) Amendment of Bylaws

Requiring a deposit-taking Sacco to seek authority of the Authority before amending its registered bylaws is fundamentally misdirected in the following terms

- (i) It should be emphasised that deposit-taking Saccos are first and foremost co-operative societies save their core activity is deposit-taking business. They are at inception registered as co-operative societies together with their bylaws. The Sacco Societies Act does not provide for registration and by extension registration of the amended bylaws whereas on the contrary the same is provided in the Co-operative societies Act, Cap 490 Laws of Kenya. If the intention is to change the registration regime in respect to Saccos, the same should be substantively provided in the Sacco Societies Act.
- (ii) Not all amendments to the bylaws have a bearing on financial aspects which the Authority seeks to regulate. Some of the issues Saccos may wish to amend are non-financial in nature and therefore may not need to be authorised by the Authority. It is our proposal that if it is imperative that the Authority has to authorise amendment of bylaws, then it should be in regard to bylaws that have a financial implication. Day to day matters in regard to the amendment of the bylaws should better be left to the Commissioner for Co-operative Development, i.e. under the CAP 490.
- (iii) Any amendment to the bylaws is done within the purview of the principle law. It is only enough to require that amendment to the bylaw be done intra vires the written principle law and the regulations or rules. Having to seek the approval of the Authority amounts to giving the regulator too much latitude and powers. This suffocates the market players leaving them with no room to play.
- (iv) The Authority lacks capacity in areas which are technical in nature and therefore may not be best suited to advise on some of the amendments without the

Fully aware that for the Authority to bring into effect this amendment there is need to make regulations whereby the stakeholders may or may not get a chance to contribute, nevertheless, the amendment gives too much blanket powers to the regulator.

Aspects like academic qualifications if left to the regulator to determine without the participation of the stakeholders is likely to disadvantage a big cross-section of deposit-taking Saccos majorly patronised by the rural folk who have invested heavily in these entities.

3. Amendment of Section 50.

50(8) Again, this is borrowed from the banking Act whereby shareholders or directors or officers of the company with substantial shareholding are required to abide by certain minimum standards. Substantial holding in the company parlance may mean a shareholder with a given minimum shareholding (say more than 5 per cent). But in the deposit-taking Sacco parlance, it is not known who a 'significant members' is. The proposed amendment should be stated with clarity for anyone to understand what the intention of the law is.

The minimum standards including their mandatory continuous or minimum professional qualifications, in our view, should better be left to the market to self regulate or develop. This provision is too prescriptive and should be done away with.

4. Amendment of Section 54

54(5) This amendment seeks to introduce the sharing of information on performing and non-performing loans between deposit-taking Saccos "as may be prescribed in the Banking Act". This proposed amendment is not clear at all. Sharing of information on credit between market players is a positive development but the guideline should be clear from the word go. Which section of the Banking Act prescribes the same, and what are the prescriptions are the questions that linger and deserve to be answered. The same should be rendered in clarity.

54(6) Amendment of subsection 6 of section 54 by inserting an additional paragraph whereby the banks and the micro finance institutions are included among institutions to share information without the same being necessarily termed as breach of duty on the part of officer occasioning such sharing of information is a good development and therefore should not elicit any negative reaction.

54(7) Sharing of information especially on credit by logging in deposit-taking Saccos into the credit reference bureau is a good development to ward off bad borrowers.