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**THE CENTRAL BANK OF KENYA (AMENDMENT)
ACT, 2021**

No. 15 of 2021

Date of Assent: 7th December, 2021

Date of Commencement: 23rd December, 2021

AN ACT of Parliament to amend the Central Bank of Kenya Act and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Central Bank of Kenya (Amendment) Act, 2021. Short title.

2. Section 2 of the Central Bank of Kenya Act (hereinafter referred to as the principal Act) is amended by inserting the following new definitions in the proper alphabetical sequence — Amendment of section 2 of Cap 490.

“digital channel” means the internet, mobile devices, computer devices, applications and any other digital systems as maybe prescribed by The Bank;

“digital credit” means a credit facility or arrangement where money is lent or borrowed through a digital channel;

“digital credit business” means the business of providing credit facilities or loan services through a digital channel;

“digital credit provider” means a person licensed by The Bank to carry on digital credit business;

“specified digital credit provider” means a licensed digital credit provider within the meaning of section 33R;

3. Section 4A of the principal Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (d) — Amendment of section 4A of Cap. 490.

(da) license and supervise digital credit providers not regulated under any other written law;

4. The principal Act is amended by inserting the following new Part immediately after Part VI B— Insertion of new Part in Cap. 490.

**PART VI C—REGULATION OF DIGITAL
LENDERS**

No. 15

Regulation of
digital lenders.

33R. Without prejudice to the generality of section 4A (da), The Bank shall have power to—

- (a) license digital credit providers;
- (b) approve digital channels through which digital credit business may be conducted;
- (c) determine parameters for pricing of digital credit;
- (d) supervise digital credit providers;
- (e) suspend or revoke a license; and
- (f) direct or require such changes as The Bank may consider necessary.

Licensing.

33S. (1) A person shall not carry on any digital credit business unless that person has been licensed by The Bank under this Act or is permitted to do so under any other written law.

(2) An application for a license under subsection (1) shall be made to The Bank in such form and shall be accompanied by such information and fee as may be prescribed.

(3) An application under subsection (2) shall be accompanied by—

- (a) a copy of the certificate of incorporation under the Companies Act;
- (b) a certified copy of the applicant's memorandum and articles of association;
- (c) a notification of the company's registered address;
- (d) a certificate issued pursuant to section 19 of the Data Protection Act;
- (e) a statement as to compliance with the provisions of Part VII of the Consumer Protection Act; and

(f) such other documents as may be prescribed by the Bank.

(4) Without prejudice to subsection (3) (e), an applicant shall provide the terms and conditions applicable to the digital credit and which must be accepted by the borrower before activation of a mobile loan account.

(5) The Bank may grant or reject an application for a licence by written notice addressed to the applicant within sixty days from the date of receipt of an application.

(6) A licence granted under this section shall remain valid unless suspended or revoked by The Bank in accordance with this Act, but upon expiry of the prescribed period may be renewed.

(7) The Bank may suspend or revoke a licence by written notice to the holder of the licence, if—

- (a) the licensee does not meet the conditions prescribed by The Bank;
- (b) the licensee is in breach of subsection (3) or the conditions of the Data Protection Act or the Consumer Protection Act;
- (c) the licensee is found to have given false information during the application;
- (d) the licensee goes into liquidation or an order for winding up is issued;
- (e) the licensee carries out activities outside the scope of the licensed activities;
- (f) the licensee is in breach of any of the provisions of this Act and the regulations made thereto relating to digital lending.

(8) Without prejudice to subsection (6), an applicant may apply for renewal of the licence at least three months before expiry of the licence.

(9) The Bank shall cause to be published in the Gazette and The Bank's website –

- (a) before the thirtieth day of March in each year, the names and addresses of all licenced digital lenders under this section;
- (b) within thirty days of suspension or revocation of a license, the name and address of the digital lenders whose licences have been suspended or revoked.

(10) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both.

Consultation.

33T. The Bank shall consult with other regulators including but not limited to the—

- (a) the Office of the Data Protection Commissioner; and
- (b) the Communications Authority.

Disclosure of credit information.

33 U. Notwithstanding the provisions of this section, a digital lender shall disclose any positive or negative information of its customers to the licensed credit reference bureaus, where such information is reasonably required for the discharge of the functions of the digital lenders and the licensed credit reference bureaus.

5. Section 43 of the principal Act is amended in subsection (1) by inserting the following words “specified digital credit providers” immediately after the words “specified mortgage refinance companies.”

Amendment of section 43 of Cap. 490.

6. Section 57 of the principal Act is amended by inserting the following new subsections immediately after subsection (2)—

Amendment of section 57 of Cap. 490.

(3) Without prejudice to the generality of subsection (1), The Bank may make Regulations as are necessary or expedient to give full effect to the provisions of this Act including —

- (a) the licensing requirements for digital credit businesses;
- (b) permissible and prohibited activities;
- (c) anti-money laundering and measures for countering financing terrorism;
- (d) credit information sharing;
- (e) data protection;
- (f) consumer protection;
- (g) reporting requirements for digital credit providers;
- (h) offences and penalties;
- (i) dispute resolution mechanisms; and
- (j) such other measures necessary for regulation of digital lending.

(4) Without prejudice to the generality of subsection (3)(h), The Bank may, in regulations, prescribe penalties to be paid by digital lenders who fail or refuse to comply with the provisions of this Act and the regulations made thereunder relating to digital credit, which penalties shall not exceed five hundred thousand shillings, and may prescribe additional penalties, not exceeding ten thousand shillings in each case for each day or part thereof during which such failure or refusal continues.

7. The principal Act is amended by inserting the following new section immediately after section 58—

Insertion of new section in Cap. 490.

Transitional clause.

59. (1) Any Regulations required to be made under this Act, to give effect to the provisions on digital lending, shall be made within three months of the coming into force of this Act.

(2) Any person who before the coming into force of this Act was in digital credit business and is not regulated under any other law, shall apply for a licence in

accordance with section 33S, within six months of publication of the regulations under subsection (1).