

NEWSLETTER



↓ In this newsletter you will find:

**Regulation of Virtual Asset Service
Providers in Kenya;
a Summary of the Virtual Asset
Service Providers Act, 2025
And its Impact on the Digital Assets
Economy**



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On December 18, 2015, the Central Bank of Kenya issued Banking Circular highlighting the unregulated status of Bitcoin and other crypto assets and cautioned all financial institutions against dealing in crypto assets or transacting with entities that are engaged in crypto asset activities. The Circular further expressly advises financial institutions not to open accounts for any person dealing in crypto assets.

On September 1, 2020, the CBK issued National Payments System Circular No 3 of 2020 asking all Payment Service Providers to conduct a review of all customer files and to submit to the CBK details of customers found to be carrying out unlicensed activities referred to in this Circular and the joint Public Notice of August 25, 2020.

The underlying reason for these circulars was existence of a gap in establishing the precise scope of the Capital Markets Authority Act, which functions as a legal hook for the CMA (or the CBK, as the case may be) to regulate and supervise. These functions remained unclear with respect to digital assets making it almost impossible to regulate the field.

Since the objectives and powers of the relevant authorities are determined by the scope of a given piece of legislation, this situation exacerbated legal uncertainty. To cure the uncertainty, in November 2023, the National Treasury and Economic Planning issued a policy guidance to the Director General of the Financial Reporting Center (FRC) to develop a comprehensive regulatory and supervisory framework in respect to crypto and assets and crypto asset service providers.

The culmination of this process was the Virtual Asset Service Providers Act, 2025 (Act No. 20 of 2025) which was gazetted on October 21, 2025, and gained effect on November 4, 2025.

The Act establishes a legal framework to regulate, license, and supervise crypto-asset service providers. It designates the Central Bank of Kenya and the Capital Markets Authority (CMA) as regulators to oversee Anti-Money Laundering/ Countering the Financing of Terrorism (AML/CFT) compliance, requiring all VASPs to be licensed before operating.

The Act has provided the much-needed clarity by defining terms such as virtual assets, virtual asset trading platform, virtual asset service providers, closed eco-system and virtual asset services.

KEY PROVISIONS

- **SCOPE**

The Act will not be applicable to digital representations of value or rights that operates solely within a closed ecosystem of the issuer, including those that are non-transferable outside a closed ecosystem, non-exchangeable with real world goods, services, discounts, purchased outside a closed ecosystem among others. REGULATORY AUTHORITIES

Sections 5 provide the regulatory authorities which are the Central Bank of Kenya (CBK) and Capital Markets Authority (CMA). Their functions have been specified under the 1st schedule as follows;

Types	Functions	Responsible Relevant Regulatory Authority
Virtual Asset Wallet Provider	Custodial wallet/ services (corporate and retail)	Central Bank of Kenya
Virtual Asset Exchange	Transfer and conversion services of Virtual Assets	Capital Markets Authority.
Virtual Asset Exchange	Trading, clearing and settlement platforms.	Capital Markets Authority
Virtual Asset Payment Processor	Payment gateway	Central Bank of Kenya
Virtual Asset Broker	Brokerage services	Capital Markets Authority
Virtual Assets Investment Advisor	Investment advisory services	Capital Markets Authority
Virtual Asset Manager	Virtual Asset management	Capital Markets Authority
Virtual Asset Offering Provider	Initial Coin Offering	Capital Markets Authority
	Virtual Asset Tokenization	Capital Markets Authority
	Token Issuance Platform	Capital Markets Authority
	Stable coin Issuance	Central Bank of Kenya

- **LICENSING**

Part II of the Act provides the licensing requirements and specifically eligibility, application, considerations, conditions for issuance, duration, assignment/transfer, revocation among others.

An eligible person may make an application for a licence to offer one or more of the permissible activities provided under the 1st Schedule of the Act.

For a Virtual Assets Service Provider to be licensed it must be a company limited by shares registered under the Companies Act or a foreign company limited by shares and registered under the Companies Act.

As part of the licensing requirements, the officials of the VASP must be fit and proper as provided under the Act which has outlined the relevant considerations.

- **OVERSIGHT**

As a way of ensuring compliance with the provisions of the Act, the Act has provided for the duty of the chief executive officer, appointed or designated under section 30(1) of the Act to notify the relevant regulatory authority (in writing) of any non-compliance by the licensee with the provisions of the Act or conditions specified by the regulatory authority.

- **PREVENTION OF MONEY LAUNDERING, TERRORISM FINANCING AND PROLIFERATION FINANCING BY VASP**

Noting that one of the major reasons why the CBK issued the 2015 and 2020 circulars was the possibility that the VASPS could be used for illegal activities related to money

laundering, CBK and CMA have been given the mandate to regulate, supervise and enforce compliance for Anti-Money Laundering/ Countering the Financing of Terrorism/ Counter Proliferation Financing (AML/CFT/CPF) purposes by all virtual asset service providers.

In execution of its mandate under this part, the relevant regulatory authority may vet significant shareholders, beneficial owners, directors, senior officers of a virtual asset service provider, conduct inspections, surveillance, compel the production of any document or information among other powers. Such powers will go a long way in promoting transparency and safety in this field which was previously deemed vague.

- **APPEALS**

A person who is aggrieved by any of the following decisions of the relevant regulatory authority may appeal against that decision to the relevant body. The relevant body under the Act means a court of law, a tribunal or a committee established by a written law of competent jurisdiction in Kenya. These are some of the areas the regulations will provide clarity on.

- **TRANSITIONAL PROVISIONS**

The Act contains transitional and consequential provisions to integrate VASPs into existing financial law, including amendments to the POCAMLA, the Central Bank Act and the Capital Markets Act, signalling that virtual assets will be treated as part of the regulated financial ecosystem rather than as an isolated niche.

• IMPACT

The impact of the VASP Act and the regulations (yet to be published) will be felt far and wide especially in opening up the Kenyan economy to virtual asset service providers.

Prior to the Act, the regulatory authorities and Courts of Law had frowned upon the VASPs as seen in the circulars and in cases such as: ***Lipisha Consortium Limited & another v Safaricom Limited where the Court*** found it legal for Safaricom, Kenya's largest cell phone operator also offering the e-money service M-PESA, to terminate a contract with a virtual asset service provider noting that it could not force a company to uphold a contract with an unlicensed entity.

In ***Wiseman Talent Ventures v Capital Markets Authority (Civil Suit 08 of 2019)*** (*hereinafter referred to as the "KeniCoin case"*) the Court insisted on transparency and accountability in policy matters to ensure investors make informed decisions on purchase of cryptocurrency, making investment in expectation of profits that are based on speculation of the market.

That further, there was no information to the public on the registration, offering process and disclosure requirements as provided for in other securities under the Capital Markets Act. In conclusion, it held that nobody should be allowed to engage in financial transactions exposing Kenyan public without any form of regulation.

The KeniCoin case established the jurisdiction of the CMA over certain crypto assets, based on an overarching reasoning that the public should be protected from unregulated activities in financial markets matters. It did so by considering the economic function or reality of the token, providing that existing definitions of the CMA Act can, in light of US jurisprudence, be read in a manner that allows the CMA to assume certain crypto assets under its regulatory mandate.

However, the judgement fell short of delivering a precedent that would provide for a clear understanding of the concept of a security in the digital assets sphere and that would clearly delineate digital securities from digital means of payments. In turn, it also fell short drawing a clear line between the regulatory and supervisory perimeters of the CMA and the CBK.

Consequently, there was uncertainty regarding the precise scope of the CMA Act, which serves as the legal basis for the CMA (or the CBK, as applicable) to regulate and supervise activities, particularly in relation to digital assets. Because the objectives and powers of regulatory authorities are defined by the scope of the relevant legislation, this ambiguity created legal uncertainty, which has now been addressed by the Act.

KARIBUNI TO THE KNA TEAM!

We are delighted to welcome three bright and enthusiastic trainee advocates Whitney, Angie and Peris to our firm this month. Their addition marks an exciting chapter in our continued commitment to nurturing young legal talent. Over the coming months, they will gain hands-on experience, contribute to meaningful projects, and learn from our team of dedicated professionals. We look forward to supporting their growth, celebrating their achievements, and watching them develop into skilled and confident legal practitioners. Please join us in giving them a warm welcome to the firm!



Omboko Whitney



Angela Karimi



Peris Nekoye

Projecting a brighter Future



Rotarian Peris Karanja, during the handing over of a projector donated by the Rotary Club of Kabete to A.C.K Uthiru Primary school.



LEGAL MAXIM OF THE MONTH

"IGNORANTIA JURIS NON EXCUSAT"

Meaning: Ignorance of the law is no excuse.

Explanation: This principle holds that a person cannot escape liability simply because they did not know their conduct was illegal. The law expects everyone to know the rules, so claiming ignorance does not absolve responsibility.



KARANJA
NJENGA
ADVOCATES

30⁺
YEARS