

Association of Global Custodians
Middle East and Africa Focus Committee (“AGC ME&A”);
Subject to Supplemental Comments

The Governor
Central Bank of Kenya (CBK)
P.O. Box 60000
Postal code: 00200 City Square
Nairobi - Kenya

Attention: Mr. William Nyagaka
Director Financial Markets
(e-mail: NyagakaW@centralbank.go.ke)

Dear Sir,

Re: Central Bank of Kenya (‘CBK’) CDS account opening for Foreign Clients

The Association of Global Custodians Middle East & Africa (“AGC ME&A”) represents the international banking community¹. The AGC ME&A write on behalf of the members of the AGC ME&A to briefly convey members' concerns regarding delays in opening CBK CDS accounts for investments in Kenya government securities for foreign clients. To that end, we also note the recent meeting of 20 September 2018 with the Capital Markets Authority where this matter was raised on behalf of the AGC.

Foreign clients have provided the information below as requested by the CBK under Kenya's KYC/AML regulations:

Where the ultimate beneficiary is a natural person;

1. The full names of the person.
2. The current physical and postal address of the person.

Where the ultimate beneficiary is a body corporate or legal person:

1. The full names of the body corporate or legal person
2. The registration or incorporation numbers or any other official means of identification as may be prescribed in the respective jurisdictions.
3. The full list of the directors, trustees or partners of the body corporate or legal person or equivalent
4. The current physical and postal of each director, trustee, partner of the legal person or equivalent – Note that the address of the body corporate itself is acceptable where these details are not available

The information has been provided for multiple investors but the accounts are currently not being opened. This is a significant inconvenience for those investors who are targeting investment in Kenyan government securities and are at risk of losing out on such investment opportunities as a result of the suspension. Additionally, there is also the risk that the situation could lead to a negative impact to investor confidence in this market.

Another key concern for Members and the foreign investor community is that since the suspension announcement by the CBK in June, there has been no further information released to the market, in particular about when the

¹ *The Association of Global Custodians is an informal group of 12 financial institutions that provide securities safekeeping services and asset-servicing functions to primarily institutional cross-border investors worldwide. As a non-partisan advocacy organization, the Association represents members' common interests on regulatory and market structure matters through comment letters, white papers and interaction with legislative and regulatory authorities and financial industry organizations around the globe. The members of the Association of Global Custodians are: BNP Paribas; BNY Mellon; Brown Brothers Harriman & Co; Citibank, N.A.; Deutsche Bank; HSBC Securities Services; JP Morgan; Northern Trust; RBC Investor & Treasury Services; Skandinaviska Enskilda Banken; Standard Chartered Bank; and State Street Bank and Trust Company.*

suspension will be lifted. We would be grateful if you can provide further clarity on this so that we can manage our client expectations.

The AGC ME&A would like to share our experience in other jurisdictions who have had to manage such matters and in doing so, reiterate that this requirement is very difficult for foreign investors, causing delay and ultimate impact on foreign investment in Kenya in requiring these documents.

We note the following:

Best Practice and alternative considerations

We understand the importance of complying with required AML and KYC regimes which the Association supports efforts by regulators in many jurisdictions to ensure all requirements are met by all financial institutions along the chain. Members also understand the regulatory challenge involved in balancing the need to enhance oversight and enforcement against the risks of injecting unnecessary costs or burdens on market participants or creating other unintended consequences.

Members also confirm to you their compliance with the AML and KYC regulations imposed by their respective home jurisdictions. As highly regulated entities, members and their institutional underlying client base are subject to strict and substantial oversight and audit reviews on an ongoing basis by their home jurisdiction banking and market regulators; these regulatory regimes encompass regular reviews of the operation and adequacy of custodians' AML and KYC due diligence programs.

The industry standard for global custodians is the application of a risk-based approach for AML consistent with the EU and Financial Action Task Force (FATF) guidelines. The Association members confirm the low-risk nature of global custodians' institutional client base and clients' status as regulated institutions in their own right and global custodians' conservative business practices should give assurance to CBK regarding AML compliance.

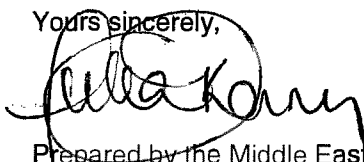
Considering the above and due to the low risk nature of global custodians' institutional client base, AGC ME&A members would request you to reconsider resuming CBK CDS account opening.

Thank you for your attention to this matter; we look forward to hearing from you. If you have any questions or would like additional information, please contact the undersigned.

Julia McKenny
Chair of AGC ME&A
1 Basinghall Street, London, EC2V 5DD
UNITED KINGDOM

Email: julia.mckenny@sc.com

Yours sincerely,



Prepared by the Middle East and Africa Association of Global Custodian Committee,
24 September 2018

cc:

The Chief Executive Officer
Capital Markets Authority
Embankment Plaza, 3rd Floor
Longonot Road, off Kilimanjaro Avenue, Upperhill
P.O Box 74800
Postal code: 00200
Nairobi -Kenya

cc:

The Chief Executive Officer
Nairobi Securities Exchange
55 Westlands Road
P O Box 43633
Postal code: 00100
Nairobi – Kenya

cc:

The Chief Executive Officer
Kenya Bankers Association
13th Floor, International House
Mama Ngina Street
Postal Code: 00200
Nairobi Kenya