

THE SACCO SOCIETIES (AMENDMENT) ACT, 2022: A REVIEW

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Newsletter

2022

Introduction

The **Sacco Societies (Amendment) Act, 2022** (the Act) is one of the laws recently passed by Parliament. The Act, whose Bill originated from the Senate, was republished following the 2021 judgment of the Court of Appeal in **Civil Appeal No. E084 of 2021** which nullified 24 laws (including the **Sacco Societies (Amendment) Bill (No.16 of 2018)**) for lack of Senate participation.

The Bill was passed by Senate without amendments and referred to the National Assembly in December 2021. It was then passed by the National Assembly on **16th June 2022** and was assented to on **6th July 2022**.

Purpose of the Act

The primary objective of the Act (as well as that of its 2018 predecessor), is to provide for ICT as the mechanism through which Saccos shall submit and receive statutory reports and other information relevant in their ordinary course of business.

Section 41 of the Sacco Societies Act, 2008 (the Principal Act) provides that "A Sacco shall, not later than 3 months after the end of each financial year, submit to the Sacco Societies Regulatory Authority (SASRA), in the prescribed format (a) an audited balance sheet, showing its assets and liabilities; (b) an audited profit and loss account; and (c) a copy of the auditor's report.

Now, in an effort to enforce and centralize this requirement to share information, the Act introduces an electronic system through which all Saccos shall make the necessary disclosures.

Highlights of the Act

a) Electronic system

Clause 9(1) of the Act amends **Section 53** of the Principal Act by introducing **Section 53A** which provides that SASRA shall establish and operate an electronic filing system for purposes of filing statutory returns and documents or other information required to be furnished to Saccos.

Clause 9(2) provides that SASRA shall issue guidelines on the use and procedure of the system including registration of Saccos to participate in the system, statutory returns, documents or other information to be transmitted through the system and any other matter for the better use and provision of the system. **Clause 9(3)** emphasizes that all information to SASRA shall be submitted through the system while **Clause 9(4)** provides that SASRA shall where necessary, issue a notice to provide documents to the registered account of the specific Sacco.

It goes without saying that the electronic system will greatly transform the Sacco regime positively. Not only will SASRA easily receive the necessary records as required by the Act, Saccos will also greatly benefit from an efficient and accountable system through which they can collect information they need for themselves and their customers.

b. Alignment with other relevant laws

In addition to the minor revisions done to align the Act's terms and definitions to the current constitutional dispensation, the Act shall result in a harmonization of a few legislations which at the moment have a semblance of conflict.

i. Alignment with the Co-operative Societies Act

Clause 6 of the Act amends **Section 27** of the Act by including in the Act sub-section 8 which provides that "The registration of a Sacco Society the licence of which is revoked under the Act shall be cancelled in accordance with **Section 62 of the Co-operative Societies Act**". This addition shall align cancellation processes of Saccos to that of the general co-operative societies in Kenya.

ii. Alignment with CRB Regulations, 2020

In addition to the statutory requirements explained above, it is noteworthy that processing of data through a centralized electronic system shall in consequence have significant impact on the Sacco credit reporting system governed by the **CRB Regulations, 2020**.

Under **Section 54** of the Principal Act, Saccos are expected to exchange information with the Authority, amongst themselves and with CRBs in the ordinary course of business. Such information, if it discloses the individual account holder, should only be shared upon receipt of the account holder's consent. With the issuance of the CRB Regulations, Saccos were included as authorized subscribers of credit data meaning they can now receive and share creditor information with CRBs without requiring an account holder's consent.

In its **Strategic Plan 2018-2020**, SASRA decried that "the regulations fall short of extending the reporting requirement by SACCOS to SASRA or creating a direct obligation for CRBs to share credit information with the SACCO regulator SASRA. This impairs information sharing and by extension supervision efforts by SASRA". To cure this problem, SASRA expects to "either seek for the revision of the CRB regulations of 2020 to include this requirement or pursue an independent set of regulations that will ensure the requirement is realized".

With the Act now passed, the electronic system to be established by SASRA provides an avenue through which SASRA shall incorporate an obligation on Saccos to report Credit Reference data to SASRA. The effect of this is that the system shall effectively deal with the existing gap in supervision as well as streamline the reporting system.

Conclusion

The **Sacco Societies Amendment Act, 2022** is critical in facilitating the implementation of **Section 41** of the Act which requires Saccos to submit various documents and information to SASRA. The key amendment being introduced by the Bill is an electronic mechanism of transmission of data which shall ease, centralize and standardize reporting systems for the benefit of SASRA and Saccos.

Having amassed extensive financial experience, our Firm is adequately versed in all matters pertaining to Saccos. Additionally, we pride ourselves in having offered various services to Saccos and/or customers of Saccos. For this and any other relevant legal issue, feel free to reach us at any time. We shall be delighted to hear from you.

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