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AN E-NEWSLETTER BY KENYA ASSOCIATION OF STOCKBROKERS AND INVESTMENT BANKS (KASIB)

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## Brokers support money laundering Act

Stockbrokers and Investment Banks under their umbrella body KASIB have come out strongly to support the **Proceeds of Crime and Anti-Money Laundering Act (2009)** that was passed by the Kenyan Parliament in December 2009. This follows their participation in a workshop to discuss the Act that was held in Naivasha on the 7<sup>th</sup> to 10<sup>th</sup> of April 2010 that was organized by the Kenya Chapter of the International Commission of Jurists (ICJ) in conjunction with the Institute for Security Studies (ISS) of South Africa.

The workshop that had participants drawn from government, civil society, international experts and key private sector players sought to address the various opportunities and obstacles that exist as this legislation is rolled out by the Government. The object of this proposed legislation is, to provide for the offence of money laundering and to introduce measures for combating the offence, to provide for the identification, tracing, freezing, seizure and confiscation of the proceeds of crime, and for connected purposes.

This Bill that has 13 parts, 130 sections and 6 schedules was passed on the 4<sup>th</sup> attempt of the House since 2004 when

it was first introduced and will be operationalised by the Minister by way of gazette notice.

KASIB Chief Executive Jane Njeru said in a telephone interview that Criminalizing money laundering for Kenya is an international obligation being met on the basis of the Vienna and Palermo Conventions to which it is a signatory and that the Palermo Convention adopts the same provisions of money laundering as the Financial Action Task Force on Money Laundering (FATF) in its 40 Recommendations on Money Laundering. Kenya has also signed the ESAAMLG (Eastern and Southern African Anti-Money Laundering Group) memorandum of understanding. The MOU creates a platform for cooperation between all these countries and for the promotion of the fight against money laundering regionally.

“The long term success of the financial sector and specifically the capital markets depends on attracting and retaining legitimate funds. A financial sector that allows introduction of laundered money sets itself up for failure. Laundered



Participants at the meeting in Naivasha. Jane Njeru seated front row second right

money not only destabilizes the financial sector and undermines its integrity but also leads to loss of investor confidence” she said.

**The passing of the anti-money laundering law comes in the wake of the release of a shocking U.S. State Department report saying \$93 million of earnings from drug trafficking are laundered in Kenya’s financial system annually.**

The Capital Markets Authority last week released guidelines for players in the industry in line with the Act. “KASIB strongly supports the Act and the guidelines that have been released by the CMA and hopes that they will complement the

internal controls that stockbrokers and investment banks already have in place to combat money laundering.” She was however not optimistic about the reporting threshold that has been placed at USD 10,000 saying that it was low and would eventually see the Financial Reporting Centre (FRC) that has been created by the Act receiving masses of data that might effectively hide what the law enforcers might actually be looking for. The second schedule of the Act states that a person who transports monetary instruments of US\$ 10,000 or its equivalent in Kenya Shillings or any other currency into or exit. “An aggressive KYC (know your customer) policy has been strongly advocated by KASIB for its members to ensure they strive to learn as much as they can about their customers.

Even with the implementation of the new legislation, our members are alert for investors that would invest repeated entries of amounts less than the 10,000 dollars in an attempt to circumvent the requirements of the legislation”

Mrs Njeru conceded that fighting the money launderers was not easy but insisted that stockbrokers and investment banks were up to the task. “Fighting this vice will need the goodwill and concerted participation of all players.” The First Schedule of the Act names as supervisory bodies, the Central Bank of Kenya, the Insurance Regulatory Authority, the Betting & Licensing Control Board, the Capital Markets Authority, the Institute of Certified Public Accountants of Kenya, the Estate Agents Registration Board, the Non-Governmental Organizations Co-ordination Board and the Retirement Benefits Authority.

## The Market hits 1 Trillion mark

It is excitable news that the Nairobi Stock Exchange (NSE) market capitalization has hit the one trillion mark having registered an impressive 20% increment compared to the beginning of 2010. By now, most investors have been told that this is very good news, but what many continue to ask is what does this really mean for the market and to investors?

We first need to understand what market capitalization is. Market capitalization (or market cap) is the measure of the total market value of a listed company. Therefore, if a company has issued 100 million shares, each trading at KES 5/=, then the market capitalization for that company is KES 500 million. The market capitalization of the Nairobi Stock Exchange therefore is the sum total of the market capitalization of all listed companies at the exchange.



Last week, the Nairobi Stock Exchange registered the one trillion market capitalization mark, for the first time in over a year, only having done so immediately after Safaricom shares started trading at the exchange. This means that on average, the value of investments at the exchange has improved such that if one had bought shares of a listed company say six months ago, the value of those shares today is remarkably higher.

What then determines the price of shares? Basically, it is the forces of supply and demand. The more demand there is for the shares of a certain company, the higher the price will be and conversely, lower demand usually equals a lower price. But then again, what drives demand? This demand is affected by several factors. First is the fundamentals of the company, is it profitable, does it have prospects for growth etc. Second is market sentiment, do investors (both individually and collectively) believe that the company will register growth, do they have confidence in the future of the companies and industry etc. Third is politics, how stable is the political environment in which an investor is investing?

From the foregoing, a general increase in the market capitalization at the bourse therefore means several things. That the fundamentals of most listed companies are impressive and that they are registering profits.

That there is confidence in the performance of the market (and by extension the economy) therefore investors are willing to invest. And finally, that the political environment in Kenya is conducive for investment.

This is true from what we can all see. Most listed companies are registering impressive profits and paying out good dividends. The general feeling about the investing environment is positive especially after the rains and subsequent bumper harvest across most parts of the country. The political environment, referendum or not, is stable and indeed many investors, both local and foreign are trooping to the Nairobi Stock Exchange. It is therefore no surprise that in the first quarter of 2010, the NSE is the top ranked equity market in Africa and is also currently ranked as the fifth largest equity market in Africa based on market capitalization.

This can be translated as a “vote of confidence” in the Nairobi Stock Exchange and it will have a multiplier effect of attracting even more investors. In both the short and medium term therefore, one can confidently predict that the stock market and the value of investments at the exchange will continue to grow. For those who can read the writing on the wall, the start of the long awaited Bull Run is finally here with us.

## FUND growth, PM tells stockbrokers



**Prime Minister Raila Odinga on Monday challenged Kenyan stock brokerage and investment banks to invest in the development of local infrastructure saying public funding is not sufficient.**

He told them to get engaged in projects such as construction of roads and energy generation.

“We should not leave these investment opportunities to foreign companies only. We want our people to invest in these areas through the private/public sector partnership and not be mere spectators,” said Mr Odinga.

Noting that the two areas were particularly vibrant now, Mr Odinga encouraged local investment banks to take on road concessioning and rural electrification projects.

He spoke in an address to officials of the Kenya Association of Stockbrokers and Investment Banks (KASIB) at his Treasury office.

The PM, at the same time, called for strengthening of the capital markets saying they attracted investors to the country.

### **Capital Markets**

Mr Odinga urged Kenyans to increase their investments in the stock markets as a means of empowering themselves economically noting that the capital markets were like barometers for measuring the state of the country’s economy.

“We cannot develop our economy only on the basis of foreign investors; locals must position themselves to play a leading role in this matter,” he said.

Responding to some of their requests, Mr Odinga said the government would consider extending the period within which individuals should sell off 75 per cent of their shareholding in stock brokerage and investment banks for another three years.

He acknowledged that it would not be prudent to ask the individuals to dispose of their shares with depressed trading volumes and a general slump in the prices of listed companies at the Nairobi stock Exchange.

Amendment of section 29 of the Capital Markets Act limits any person other than commercial banks and other special institutions from holding more than 25 per cent of shareholding in stock broking companies or investment banks, a requirement that should come into effect by 1st of January 2010.

**KASIB officials were led by Chairman Michael Gichohi and the Chief Executive Officer Jane Njeru.**

*Courtesy of PMPS*

## All set for changes in ownership at NSE

The stage is set for the eventual transfer of Nairobi Stock Exchange (NSE)'s ownership from Stockbrokers and Investment Banks to the investing public. In a recent Extraordinary General Meeting held at the Stanley Hotel, all the current shareholders approved the change to allocate 10 per cent of the bourse to Treasury, 10 per cent to the Investor Compensation Fund (ICF) – a fund managed by the Capital Markets Authority (CMA), and 80 per cent to the 20 brokers who currently own the bourse.

However, according to Kenya Association of Stockbrokers and Investment Bank (KASIB) Chief Executive, Jane Njeru, the new ownership arrangement is a transitional measure. Eventually, part of the NSE will be offered to the public through an Initial Public Offering (IPO). The process of transferring NSE shares from a few owners to the public is referred to in stock markets language as Demutualization.

The NSE, the CMA and all the brokers under KASIB are in agreement that *demutualization of the NSE has been long*

*overdue.*

Mr Micheal Gichohi, the Chairman of KASIB says *it has been the collective dream of industry players to list NSE as a public company and pave the way for Kenyans to own one of the biggest and most profitable stock exchanges in the region.*



“Many exchanges in the world were member-owned just like the Nairobi exchange until the early 1990’s when they started to change their organizational structures into demutualized exchanges. These perform well both in terms of returns to shareholders and operating performance,” the Chairman

says.

As part of the demutualization process, each broker is expected to have ceded part of their stake in the next two years. As a matter of fact, KASIB members have resolved that eventually, no single Stockbroker or Investment Bank will hold more than 4 percent of the new exchange.

Treasury will be the custodian of the shares that will be allocated to the three stockbrokers who are currently under statutory management. These are; Nyaga Stock Brokers, Discount Securities and Ngenye Kariuki.

The journey to shift NSE ownership started about three years ago. Most of the milestones achieved have been spearheaded by the stakeholders’ Demutualization Steering Committee.

Upon demutualization, the NSE will change its name to Nairobi Securities Exchange and will have an approved share capital of KSh1 billion.

## Brokers train again on corporate governance

Stockbrokers and Investment Banks held a two day training workshop at the Stanley Hotel on Corporate Governance. The workshop that was organized by the Capital Markets Authority was attended by all participants in the Capital Markets Industry. This follows a similar training workshop that KASIB members held last year on Corporate Governance where they launched the code of ethics as part of their corporate governance program. The code was initiated as a response to the realization that Stockbrokers and Investment Banks need to improve their internal systems of management for better delivery of service to investors.

Market intermediaries have embraced the call to introduce the principals of good corporate governance in the way they run their businesses.

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