



**REPUBLIC OF KENYA
THE NATIONAL TREASURY**

**IN THE MATTER OF PUBLIC PARTICIPATION ON THE DRAFT
REGULATORY IMPACT STATEMENT (RIS)**

ON

**THE DRAFT VIRTUAL ASSET SERVICE PROVIDERS REGULATIONS,
2026**

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EXECUTIVE SUMMARY

A Regulatory Impact Statement (RIS) is a summary of an evaluation conducted before a new regulation is introduced. It provides a detailed and systematic appraisal of the potential impact of a new regulation to assess whether the regulation is likely to achieve the desired objectives. RIS promotes evidence-based policy making as new regulations typically lead to numerous impacts that are often difficult to foresee.

The Statutory Instruments Act CAP 2A is the legal framework governing the conduct of RIS in Kenya. Sections 6 and 7 require that if a proposed statutory instrument is likely to impose significant costs on the community or a part of the community, the regulation-making authority shall, prior to making the statutory instrument, prepare a RIS about the instrument.

This RIS assesses the impact of implementation of the Virtual Asset Service Providers Regulations, 2026, whose object is to operationalize the provisions of the Virtual Asset Service Providers Act (Act No. 20 of 2025). The RIS is divided into 9 parts.

Part I provides an introduction on the Virtual Assets ecosystem in Kenya.

Part II outlines the regulation-making authority.

Part III captures a statement of the objectives of the Regulations and the reasons for them.

Part IV outlines the salient features of the Regulations. It gives a general summary of the provisions of the Regulations.

Part V is the Policy and legal framework for the Virtual Asset (VA) and Virtual Asset Service Providers (VASPs) sector in Kenya.

Part VI elaborates the stakeholder consultation across various Ministries, Departments and Agencies (MDACs), development partners, industry stakeholders and the public through a public participation exercise.

Part VII provides for the regulatory and non-regulatory options that were available and reasons why other options were not appropriate. It also justifies why the regulatory option is appropriate.

Part VIII expounds the effect of the proposed Regulations.

Part IX is a cost and benefit analysis that weighs the cost of implementing the proposed Regulations against the benefits of what the proposed Regulations are anticipated to bring.

Part X and XI are the conclusion and recommendations on the option to adopt. This RIS concludes that the proposed Regulations will foster a secure, resilient and innovative virtual asset ecosystem in Kenya.

1.0 INTRODUCTION

Virtual Assets (VAs) have rapidly evolved over the last decade, creating new opportunities for innovation in the financial sector. A VA is a digital representation of value that can be digitally traded, or transferred, and can be used for payment or investment purposes or for other purposes as could arise.

For the last 20 years, Distributed Ledger Technology (DLT) such as blockchain technology has inspired the emergence of various types of virtual assets. Bitcoin, the first and most widely used VA, was launched in 2009, following the 2007/2008 global financial crisis. Since then, there has been a significant increase in various types and uses of virtual assets. However, the decentralized and often anonymous nature of these virtual assets poses significant regulatory challenges. Jurisdictions around the world are grappling with how to balance the promotion of innovation with the need to protect consumers, maintain financial stability, and prevent illicit activities like Money Laundering (ML), Terrorism Financing (TF), Proliferation Financing (PF) and tax evasion.

Furthermore, the global virtual asset industry has witnessed rapid changes, volatility risks, evidenced for example by the collapse of FTX Trading Ltd (the third largest crypto exchange at the time) in November 2022, underscoring the need for effective policy and regulation of VAs and Virtual Asset Service Providers (VASPs).

Adoption of VAs in Africa has grown in the recent past, as evidenced by the increasing number of countries with regulatory frameworks for VAs and VASPs. Kenyans are increasingly adopting VAs as an alternative form of investment and transfer of value, due to their fast speed, cost, cross border nature, convenience, and anonymity. The VA/VASP ML/TF National Risk Assessment (NRA) conducted in Kenya in 2023 revealed that the younger population showed a greater interest in VAs.

The growing interest in VAs comes with challenges and risks associated with an unregulated market, including but not limited to capital flight, ML, TF, weak governance structures, cybercrime, fraud, and consumer protection issues. These risks have been compounded by the absence of a legal and regulatory framework for VAs and VASPs.

Accordingly, the Government developed the Virtual Asset and Virtual Asset Service Providers Policy in 2025 and enacted the Virtual Service Providers Act, 2025 (Act No. 20 of 2025) to provide for a regulatory framework to enable the country to harness the benefits while addressing the risks presented by VAs and VASPs. The Virtual Asset Service Providers Regulations, 2026, will operationalize the provisions of the Act.

2.0 REGULATION-MAKING AUTHORITY

The Regulation making Authority is the National Treasury in which the Cabinet Secretary pursuant to section 49 (1) of the Virtual Asset Service Providers Act (Act No. 20 of 2025) has the mandate to issue the Virtual Asset Service Providers Regulations, 2026.

3.0 A STATEMENT OF THE OBJECTIVES OF THE REGULATIONS AND REASONS FOR THEM

3.1 The Objective of the Regulations

The primary objective of the Virtual Asset Service Providers Regulations, 2026, is to operationalize the Virtual Asset Service Providers Act, 2025, to create a safe, transparent, and innovative regulatory environment for the virtual assets in Kenya.

The specific objectives of the Regulations are to:

- i. Operationalize the licensing and supervisory requirements for VASPs;
- ii. Mitigate financial integrity risks by enforcing Anti-Money Laundering, Countering the Financing of Terrorism and Countering Proliferation Financing (AML/CFT/CPF) standards, market conduct rules, and cybersecurity requirements;
- iii. Enhance consumer and investor protection through disclosure requirements, safeguarding of client assets, and robust complaint handling mechanisms;
- iv. Promote financial stability by imposing prudential standards, including capital and reserve requirements on VASPs; and
- v. Provide legal certainty for VASPs, consumers, and regulators, thereby fostering responsible innovation and attracting investment.

3.2 The Reasons for The Regulations

Unregulated VASPs pose significant financial-system risks by enabling Money Laundering, Terrorist Financing, Proliferation Financing, and sanctions evasion due to weak or absent AML/CFT/CPF controls, while also exposing consumers to losses from fraud, hacks, and insolvency.

The lack of governance and oversight of VASPs fuels market manipulation, undisclosed leverage, and operational failures, all of which can trigger contagion risks across interconnected crypto and traditional financial markets. In addition, regulatory arbitrage, tax evasion, and threats to monetary sovereignty, further erode financial stability and government oversight, making unregulated VASPs a potential systemic vulnerability.

In addition, the demand for foreign currency to purchase VAs across borders may cause inflationary pressure on the local currency, thereby leading to amplified financial stress across the entire financial system.

A legal and regulatory framework for VASPs addresses the risks of VAs and VASPs while providing an enabling environment for the responsible use of VAs in the country.

4.0 SALIENT FEATURES OF THE REGULATIONS

The salient features of the Regulations include the following:

- i. Licensing framework for VASPs, including application requirements, applicable fees, and the process for reporting any changes to previously submitted information.
- ii. Requirements for conducting Initial Coin Offerings (ICOs), stablecoin issuance, tokenization, including information and documents that must accompany an application, as well as the factors the regulatory authority will consider when assessing the application.
- iii. Capital, financial, and record-keeping obligations for licensees. Licensees must maintain capital and financial resources proportionate to their scale, risk, and complexity, including prescribed paid-up capital, proper accounting systems, financial reporting mechanisms, and insurance requirements.
- iv. Cyber security measures and systems to manage operational and cyber risks, including controls to detect, prevent, and rectify system failures. In addition, the regulations provide for business continuity arrangements, adequate monitoring mechanisms, corporate governance, documented processes, and regular staff training.
- v. Safekeeping and management of customer assets.
- vi. Requirements for licensees using distributed ledger platforms to ensure proper safeguarding arrangements and clear agreements with clients regarding their virtual assets and consumer protection standards, including surveillance systems to detect market abuse and financial crime.
- vii. Guidance on Advertisements and Promotions of Virtual Assets and Products.

5.0 POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK

The Government approved the National Policy on Virtual Assets and Virtual Asset Service Providers in 2025. The objective of the Policy is to guide the development of a fair, competitive, and stable market for VAs and VASPs in Kenya. The Policy informed the development and eventual enactment of the Virtual Asset Service Providers Act, 2025. The Act provides a legal framework to license and regulate the activities of the VASPs. The Policy and the Act demonstrates

Kenya's commitment to fostering innovation while safeguarding financial integrity and consumer protection.

The Act provides the legislative framework for regulation and supervision of VASPs to ensure the country harnesses the benefits of VAs while minimizing risks. The Act further outlines obligations of VASPs in the prevention of ML, TF, and PF.

The Act designates the Central Bank of Kenya (CBK) and Capital Markets Authority (CMA) as the relevant regulatory authorities responsible for licensing, supervising, and overseeing VASPs operating in or from Kenya.

The Central Bank of Kenya is mandated to regulate and supervise the following categories of VASPs:

- i) Virtual Asset Wallet Providers
- ii) Virtual Asset Payment Processors
- iii) Virtual Asset Offering Providers dealing with stablecoin issuance.

The Capital Markets Authority is mandated to regulate and supervise the following categories of VASPs:

- i) Virtual Asset Exchanges.
- ii) Virtual Asset Brokers.
- iii) Virtual Asset Investment Advisors.
- iv) Virtual Asset Managers.
- v) Virtual Asset Offering Providers dealing with Initial Coin Offerings, VA Tokenization, and VA Token Issuance Platforms.

6.0 REGULATORY AND NON-REGULATORY OPTIONS AND REASONS WHY OTHER OPTIONS ARE NOT APPROPRIATE

The Statutory Instruments Act requires a Regulation-Making Authority to carry out an informed comparison of a variety of regulatory and non-regulatory policy measures, considering relevant issues such as costs, benefits, distributional effects and administrative requirements. The options considered under this part are outlined in **Table 1** below.

Table 1: An analysis of regulatory and non-regulatory options and the impact.

	Options	Impact
1	Option 1: Regulate the VASP Ecosystem.	The Government made a policy decision to regulate VA activities. To this end, the Government developed the

		National Policy on Virtual Asset and Virtual Asset Service Providers in 2025, which informed the development of the Virtual Asset Service Providers Bill, 2025, that has since been enacted into law. This approach effectively safeguards financial integrity, market stability and consumer protection.
2	Option 2: Status Quo (Unregulated VASPs activities).	The implementation of this option presents a dual risk: it has the potential to amplify existing threats of money laundering, terrorist financing, and proliferation financing because of weak or absent AML/CFT/CPF controls, and it simultaneously subjects consumers to potential losses stemming from fraud, security breaches, and institutional insolvency.
3	Option 3: Ban dealing with Virtual Asset Activities.	This option was not preferred due to its prohibitive enforcement costs and operational complexity. Furthermore, a ban would inadvertently suppress technological innovation and place Kenyan citizens and businesses at a competitive disadvantage within the rapidly evolving global digital economy.

6.1 Justification for Option 1: Regulatory Approach

Kenya has witnessed increased adoption of VAs over the years. However, the activities of the VASPs are not limited to Kenya and therefore some of the VASPs operating in Kenya are registered and/or licensed in different jurisdictions, hence posing potential risks related to but not limited to ML/TF/PF and market misconduct.

Despite Kenya having put in place an overarching AML/CFT/CPF legislative framework that addresses broad ML/TF/PF risks, the regulatory approach adopted would ensure the establishment of a robust oversight framework for VASPs.

7.0 THE EFFECT OF THE PROPOSED REGULATIONS

The implementation of the proposed Regulations will have several effects as provided in **Table 2**.

Table 2: Effect on taxes, fees, revenues, public sector, private and business, fundamental rights and existing legal frameworks

Component	Effect
Taxes, fees and revenues	The regulatory instrument will not introduce any additional taxes. However, the relevant regulatory authorities will impose applicable fees on VASPs. The fees paid by the licensed entities will provide the necessary resources to the relevant regulatory authorities to enable effective supervision and consumer education. The regulation of VASPs may provide additional tax revenue by sealing the existing loopholes through enforcement of the legislation.
Public sector	The Regulations will help in strengthening the institutional capacity of the relevant public sector institutions in dealing with financial crimes including combating ML/TF/PF. In addition, it will provide a coordinated mechanism for regulating VASPs.
Private sector and business	The Regulations will ensure legal compliance of all licensed entities under the Act. In addition, the Regulations will promote research and innovation in the VA sector thereby spurring growth in digital finance.
Fundamental rights and freedoms	The Regulations are not expected to have a negative impact on fundamental rights of persons or institutions that are subject to it. The Regulations do not have a negative impact on the environment or environmental rights of the people. The Regulations promote the Right to Privacy by requiring compliance with the provisions of the Data Protection Act, CAP 411C. The Regulations address cyber security measures anchored on the National Computer and Cyber Crimes, Act CAP 79C. The Regulations provide for consumer protection measures including necessary disclosures to consumers.

Component	Effect
Constitution and Existing legal framework	The draft Regulations are in conformity with the Constitution, the establishing Act and other existing legislations.
National Security	The regulations will enhance national security measures including data protection, cybersecurity and the prevention of ML/TF/PF in Kenya.

8.0 COST BENEFIT ANALYSIS

The Statutory Instruments Act, CAP 2A requires a regulation-making authority to undertake a Cost Benefit Analysis (CBA) on the Statutory instrument it is proposing. The CBA is a decision-making approach that facilitates the allocation of resources and the selection of economically efficient policy options.

Net Benefit is derived from total Cost deducted from Benefit ($\text{Net Benefit} = \text{Benefit} - \text{Cost}$). If Benefits outweighs Costs, then the proposed Regulations should be adopted and implemented by the Government.

The following is a description of the benefits and costs of the proposed Virtual Asset Service Providers Regulations, 2026.

Benefits to:

- i) Consumers and Investors:** Enhanced protection from fraud, clear disclosure requirements, safeguarded VAs, and formal complaint mechanisms.
- ii) Financial Services Sector:** Reduced risks of money laundering, terrorism financing and Proliferation Financing. Equally, there is improved financial integrity and stability that strengthens Kenya's international standing as a compliant jurisdiction in AML/CFT/CPF.
- iii) Businesses and Economy:** Legal certainty will attract legitimate investment, foster job creation in the FinTech sector, and promote Kenya as a hub for responsible financial innovation. Licensed entities will gain credibility and consumer trust.
- iv) Government:** Regulating VASPs strengthens the government's oversight of the digital asset sector by transforming a largely unmonitored industry into one that operates within the formal economy. By mandating robust reporting standards and Know-Your-Customer (KYC) procedures, the Regulations reduce the anonymity that enables illicit activities and ensure that

transactions and capital flows within the virtual asset ecosystem are transparent and accountable. Moreover, integrating VASPs into the regulated financial system promotes legitimate business growth, supports innovation, and enhances overall economic stability.

Costs to:

- i) Businesses (VASPs): *Direct Compliance Costs.*** Costs associated with the license application fee, meeting minimum capital and reserve requirements, implementing cybersecurity systems, conducting regular audits and maintaining detailed records, staff training, reporting to the regulator, developing compliance manuals, and managing client onboarding (KYC/AML checks) and AML/CFT/CPF compliance.
- ii) Regulators: *Establishment and Operational Costs.*** Significant costs for enhancing supervisory capacity within the relevant regulatory authorities, including hiring and training specialized staff, developing or procuring IT systems for effective supervision of VASPs, sensitizing the licensees, and conducting inspections and enforcement actions. Further, additional resources would be required for implementing cross-border coordination frameworks.

9.0 ANY OTHER MATTERS SPECIFIED BY THE REGULATIONS

The net impact of the proposed regulations is positive. The Regulations provide the legislative framework for regulation and supervision of Virtual Asset Service Providers (VASPs) to ensure Kenya harnesses the benefits of Virtual Assets (VAs) while minimizing associated risks. The Regulations further outline obligations of VASPs in the prevention of Money Laundering (ML), Terrorism Financing (TF), and Proliferation Financing (PF).

10.0 CONCLUSION

The proposed regulations are necessary for operationalization of the Virtual Asset Service Providers Act (Act No. 20 of 2025). The regulations provide further details on how the regulated entities can comply with the provision of the Act.

11.0 RECOMMENDATION

It is recommended that the proposed Virtual Asset Service Providers Regulations be approved to facilitate effective implementation of the Virtual Asset Service Providers Act, 2025 (Act No. 20 of 2025).

12.0 DRAFT COPY OF THE PROPOSED STATUTORY RULE

A draft copy of the Virtual Asset Service Providers Regulations can be downloaded from www.treasury.go.ke.

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