



**THE REPUBLIC OF KENYA**

LAWS OF KENYA

---

**THE BANKING (PENALTIES) REGULATIONS, 2025**

NO. 116 OF 2025

Revised and published by the National Council for Law Reporting  
with the authority of the Attorney-General as gazetted by the Government Printer

[www.kenyalaw.org](http://www.kenyalaw.org)

---

Kenya

Banking Act

## The Banking (Penalties) Regulations, 2025

Legal Notice 116 of 2025

Legislation as at 9 July 2025

By [Kenya Law](#) and [Laws.Africa](#). Share widely and freely.

[www.kenyalaw.org](http://www.kenyalaw.org) | [info@kenyalaw.org](mailto:info@kenyalaw.org)

FRBR URI: /akn/ke/act/ln/2025/116/eng@2025-07-09

There is no copyright on the legislative content of this document.

This PDF copy is licensed under a Creative Commons Attribution NonCommercial ShareAlike 4.0 License ([CC BY-NC-SA 4.0](#)). This license enables reusers to distribute, remix, adapt, and build upon the material in any medium or format for noncommercial purposes only, and only so long as attribution is given to the creator. If you remix, adapt, or build upon the material, you must license the modified material under identical terms. CC BY-NC-SA includes the following elements:

- BY: credit must be given to the creator.
- NC: Only noncommercial uses of the work are permitted.
- SA: Adaptations must be shared under the same terms.

Share widely and freely.

The Banking (Penalties) Regulations, 2025 (Legal Notice 116 of 2025)  
 Contents

- Part I – PRELIMINARY ..... 1
  - 1. Interpretation ..... 1
  - 2. Interpretation ..... 1
  - 3. Application of these Regulations ..... 1
  - 4. Purpose of these Regulations ..... 1
- Part II – VIOLATIONS ..... 1
  - 5. Conducting banking business without approval ..... 1
  - 6. Non-payment of annual fees for licence ..... 2
  - 7. Acceptance of deposits with revoked licence ..... 2
  - 8. Non-maintenance of minimum capital requirements ..... 2
  - 9. Non-submission of undertaking for assigned capital ..... 2
  - 10. Opening or change of place of business in Kenya without approval ..... 3
  - 11. Closure place of business in Kenya without notification ..... 3
  - 12. Opening or closure branch outside Kenya without approval ..... 4
  - 13. Establishment or closure of subsidiary outside Kenya without approval ..... 4
  - 14. Provision of services outside Kenya without permission ..... 4
  - 15. Not effecting amalgamation or arrangement ..... 4
  - 16. Appointment of uncertified person ..... 5
  - 17. Transfer of significant shareholding to uncertified person ..... 5
  - 18. Voting by uncertified non-significant shareholder ..... 5
  - 19. Relating of non-significant shareholder with uncertified person ..... 5
  - 20. Voting by significant shareholder without certification ..... 5
  - 21. Shareholding of five percent without certification ..... 6
  - 22. Holding office without certification ..... 6
  - 23. Advances exceeding twenty-five percent of core capital ..... 6
  - 24. Advances against security of shares of an institution ..... 7
  - 25. Advances in favour of company an institution has beneficial interest ..... 8
  - 26. Unsecured advances to employees or associates ..... 8
  - 27. Unsecured or not fully secured advances ..... 9
  - 28. Advances to officers ..... 10
  - 29. Advances of more than twenty percent of core capital ..... 11
  - 30. Advances of more than one hundred percent of the core capital ..... 12
  - 31. Advances issued fraudulently or recklessly ..... 13
  - 32. Non-compliance with direction to suspend or terminate an officer ..... 14

33. Holding office as disqualified director .....	14
34. Trade for purposes other than debt satisfaction .....	15
35. Holding interest in an undertaking .....	15
36. Holding interest in land .....	15
37. Holding interest in the share capital .....	16
38. Holding interest without approval .....	16
39. Non-disclosure of ultimate beneficial owner .....	17
40. Transfer of share capital without approval .....	17
41. Advances for land .....	18
42. Charges on savings, call or fixed deposit accounts .....	18
43. Non-payment of interest accrued or return .....	18
44. Non-maintenance of ratio of core capital to total deposit liabilities .....	18
45. Non-maintenance of core capital to risk weighted assets ratio .....	19
46. Non-maintenance of total risk weighted assets ratio .....	19
47. Non-maintenance of minimum core capital to total deposit liabilities ratio .....	20
48. Non-maintenance of minimum core capital to total risk weighted assets ratio .....	20
49. Non-maintenance of minimum total capital to total risk weighted assets ratio .....	20
50. Non-maintenance of minimum liquidity ratio .....	20
51. Dividends without writing off capitalized expenditure .....	21
52. Not providing for advances before declaring profit or loss .....	21
53. Non-maintenance of books, accounts and records .....	21
54. Publication of audited financial statements .....	22
55. Submission of audited balance sheet .....	22
56. Auditors .....	23
57. Non-submission of information .....	23
58. Disclosure of information .....	24
59. Non-disclosure of terms of loans .....	24
60. Non-maintenance of register of next of kin .....	25
61. Inspection of books, accounts and records .....	25
62. Bad faith action by appointed, designated or approved persons .....	26
63. Winding up of institutions .....	26
64. Liquidators .....	27
65. Administrators .....	27
66. Establishment of representative offices .....	27
67. Increasing charges without approval .....	28

68. Recovery of excess amounts from non-performing loan .....	28
69. Closing when it is not bank holiday or public holiday .....	28
70. False advertising .....	29
Part III – ASSESSMENT OF VIOLATIONS .....	29
71. Notice of intended assessment .....	29
72. Response to notice of intended assessment .....	29
73. Conduct of assessment .....	30
74. Determination of assessment .....	30
Part IV – IMPOSITION OF PENALTIES .....	30
75. Consideration in determining amount of penalty .....	30
76. Separate penalty for each violation and each person .....	31
77. Commensurate penalty to severity of violation .....	31
78. Imposition of penalty upon natural persons .....	31
Part V – REVIEW OF ASSESSMENTS .....	31
79. Request for review .....	31
80. Consideration of request for review .....	31
81. Appeal .....	32
Part VI – PAYMENT OF PENALTIES .....	32
82. Duty to pay penalty .....	32
83. Default in payment of penalty .....	32
84. Restriction on payment of penalty imposed on natural person by a corporate body .....	32
Part VII – MISCELLANEOUS .....	32
85. Revocation Sub. Leg .....	32
86. Transition .....	32

## **BANKING ACT**

# **THE BANKING (PENALTIES) REGULATIONS, 2025**

## **LEGAL NOTICE 116 OF 2025**

Published in Kenya Gazette on 9 July 2025

**Commenced on 9 July 2025**

### **Part I – PRELIMINARY**

#### **1. Interpretation**

These Regulations may be cited as the Banking (Penalties) Regulations, 2025

#### **2. Interpretation**

In these Regulations, unless the context otherwise requires—

"branch" has the meaning assigned to it in section 2 of the Act;

"institution" has the meaning assigned to it section 2 of the Act;

"officer" has the meaning assigned to it in section 2 of the Act;

"place of business" has the meaning assigned to it in section 2 of the Act;

"the Central Bank" has the meaning assigned to it in section 2 of the Act; and

"violation" means noncompliance with the Act, Prudential Guidelines or a direction issued by the Central Bank under the Act.

#### **3. Application of these Regulations**

These Regulations shall apply to institutions, officers, shareholders of institutions, non-operating holding companies, banks, financial institutions, representative offices, auditors, groups, vehicles of ownership of groups, agencies and any other persons.

#### **4. Purpose of these Regulations**

The purpose of these Regulations shall be to provide for what constitutes a violation, the assessment of a violation, the imposition of a penalty for a violation and the review of the decision to impose a penalty for a violation.

### **Part II – VIOLATIONS**

#### **5. Conducting banking business without approval**

An institution which contracts an agency which has not been approved by the Central Bank to conduct banking business commits a violation and is liable, upon assessment, to a penalty not exceeding fifteen million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

## 6. Non-payment of annual fees for licence

An institution which does not pay the annual fees for a licence issued under section 5 of the Act within ninety days after the end of each financial year commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

## 7. Acceptance of deposits with revoked licence

- (1) An institution which accepts deposits, opens current accounts, or makes loans or investments, after its licence was revoked under section 6(1) of the Act, commits a violation and is liable, upon assessment, if a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (4) An officer—
  - (a) of an institution found liable for the violation in paragraph (3); and
  - (b) found liable under paragraph (2),commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).

## 8. Non-maintenance of minimum capital requirements

- (1) An institution which does not maintain the minimum capital requirements specified in the Second Schedule to the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution found liable under paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (4) An officer—
  - (a) of an institution found liable for the violation in paragraph (3); and
  - (b) found liable under paragraph (2),commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).

## 9. Non-submission of undertaking for assigned capital

- (1) An institution which does not submit an undertaking to the Cabinet Secretary to keep assigned capital within Kenya in accordance with section 7(4) of the Act, commits a violation and is liable,

upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

- (2) An officer of an institution found liable for the violation in paragraph (1) commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution found liable under paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (4) An officer—
  - (a) of an institution found liable for the violation in paragraph (3); and
  - (b) found liable under paragraph (2),

commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).

## 10. Opening or change of place of business in Kenya without approval

- (1) An institution which opens a place of business in Kenya without the approval of the Central Bank, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1) commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution which opens a place of business in Kenya after the approval of the Central Bank has lapsed under section 8(2A) of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings, or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (4) An officer of an institution found liable for the violation in paragraph (3) commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (5) An institution which changes the location of an existing place of business in Kenya without the approval of the Central Bank, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (6) An officer of an institution found liable for the violation in paragraph (5), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (7) An institution which changes the place of business in Kenya after the approval of the Central Bank has lapsed under section 8(2A) of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (8) An officer of an institution found liable for the violation in paragraph (7) commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

## 11. Closure place of business in Kenya without notification

- (1) An institution which closes a place of business in Kenya without issuing a notice under section 8(3) of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

- (2) An officer of an institution found liable for the violation in paragraph (1) commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

## **12. Opening or closure branch outside Kenya without approval**

- (1) An institution which opens a branch outside Kenya without the approval of the Central Bank, commits a violation and is liable, upon assessment, to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An institution which closes a branch outside Kenya without issuing a notice under section 8A(4) of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

## **13. Establishment or closure of subsidiary outside Kenya without approval**

- (1) An institution which establishes a subsidiary outside Kenya without the approval of the Central Bank, commits a violation and is liable, upon assessment, to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An institution which closes a subsidiary outside Kenya without issuing a notice under section 8A(4) of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

## **14. Provision of services outside Kenya without permission**

- (1) An institution which provides services to customers who are outside Kenya, through banking institutions located outside Kenya, without the permission of the Central Bank issued under section 8A(5) of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1) commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

## **15. Not effecting amalgamation or arrangement**

- (1) An institution which enters into an agreement for amalgamation or arrangement, which involves the institution as the principal party, without the approval of the Cabinet Secretary, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1) commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution which enters into an agreement for the transfer of the assets or the liabilities, to another institution or person, without the approval of the Cabinet Secretary, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (4) An officer of an institution found liable for the violation in paragraph (3) commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (5) An institution which does not effect an amalgamation or arrangement, approved by the Cabinet Secretary in accordance with section 9(3) of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

- (6) An officer of an institution found liable for the violation in paragraph (5) commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

#### **16. Appointment of uncertified person**

An institution which appoints or elects, a director or senior officer—

- (a) who has not been certified by the Central Bank as a fit and proper person to manage or control the institution; or
- (b) who was previously certified by the Central Bank as a fit and proper person to manage or control the institution but is no longer certified by the Central Bank as a fit and proper person to manage or control the institution,

commits a violation and is liable, upon assessment, to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

#### **17. Transfer of significant shareholding to uncertified person**

An institution which transfers such quantity of its shares that make the person to whom the shares are transferred a significant shareholder, without the person being certified by the Central Bank as a fit and proper person to manage or control the institution contrary to section 13(4) of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

#### **18. Voting by uncertified non-significant shareholder**

A non-significant shareholder of an institution who exercises voting rights without being certified by the Central Bank upon vetting under section 9A(3A) of the Act, commits a violation and is liable, upon assessment—

- (a) where the shareholder is a corporate body, to a penalty not exceeding three million shillings; and
- (b) where the shareholder is a natural person, to a penalty not exceeding one million shillings.

#### **19. Relating of non-significant shareholder with uncertified person**

A non-significant shareholder of an institution who continues to associate or relate with a particular person or institution, upon being notified by the Central Bank that the non-significant shareholder has not fulfilled the fit and proper criteria as set out in Part B of the First Schedule to the Act, commits a violation and is liable, upon assessment—

- (a) where the non-significant shareholder is a corporate body, to a penalty not exceeding three million shillings; and
- (b) where the non-significant shareholder is a natural person, to a penalty not exceeding one million shillings.

#### **20. Voting by significant shareholder without certification**

A significant shareholder of an institution who exercises voting rights upon being notified by the Central Bank that the shareholder has not fulfilled the fit and proper criteria as set out in Part B of the First Schedule to the Act commits a violation and is liable, upon assessment—

- (a) where the shareholder is a corporate body, to a penalty not exceeding three million shillings; and
- (b) where the shareholder is a natural person, to a penalty not exceeding one million shillings.

## 21. Shareholding of five percent without certification

A significant shareholder of an institution who, upon being notified by the Central Bank that the shareholder has not fulfilled the fit and proper criteria as set out in Part B of the First Schedule to the Act, does not reduce their shareholding to below five percent of the share capital in the institution commits a violation and is liable, upon assessment—

- (a) where the shareholder is a corporate body, to a penalty not exceeding three million shillings; and
- (b) where the shareholder is a natural person, to a penalty not exceeding one million shillings.

## 22. Holding office without certification

- (1) An officer of an institution who continues to hold office upon being notified by the Central Bank that a shareholder has not fulfilled the fit and proper criteria as set out in Part B of the First Schedule to the Act commits a violation and is liable, upon assessment to a penalty not exceeding one million shillings.
- (2) An institution which permits an officer found liable for the violation in paragraph (1) to continue to hold office commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (3) An institution found liable under paragraph (2) and continues to commit the violation in paragraph (2), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (2).
- (4) An officer found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day or part of each day that the officer continues to commit the violation in paragraph (1).

## 23. Advances exceeding twenty-five percent of core capital

- (1) An institution which, in Kenya—
  - (a) grants an advance or credit facility;
  - (b) gives a financial guarantee; or
  - (c) incurs any other liability on behalf of another person whose total value in respect of that person,  
  
that exceeds twenty-five per cent of the core capital of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (4) An officer—
  - (a) of an institution found liable for the violation in paragraph (3); and

- (b) found liable for the violation in paragraph (2),  
commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (5) An institution which, in Kenya, permits to be outstanding, an advance or credit facility whose total value in respect of that person, exceeds twenty-five per cent of the core capital of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (6) An officer of an institution found liable for the violation in paragraph (5), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (7) An institution found liable for the violation in paragraph (5) and continues to commit the violation in paragraph (5), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (5).
- (8) An officer—
- (a) of an institution found liable for the violation in paragraph (7); and
- (b) found liable for the violation in paragraph (6),  
commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (5).

#### 24. Advances against security of shares of an institution

- (1) An institution which, in Kenya, grants an advance or credit facility, against the security of the shares of the institution or the shares of a banking group on consolidated basis, commits a violation and is liable, upon assessment, to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution which, in Kenya, permits to be outstanding, an advance or credit facility, against the security of the shares of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (4) An officer of an institution found liable for the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (5) An institution found liable for the violation in paragraph (3) and continues to commit the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (3).
- (6) An officer—
- (a) of an institution found liable for the violation in paragraph (5); and
- (b) found liable for the violation in paragraph (4),  
commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (5).

**25. Advances in favour of company an institution has beneficial interest**

- (1) An institution which, in Kenya—
  - (a) grants an advance or credit facility;
  - (b) gives a financial guarantee; or
  - (c) incurs any other liability,in favour, or on behalf, of a company which the institution holds a beneficial interest of more than twenty-five per cent of the share capital, commits a violation and is liable, upon assessment, to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution which, in Kenya, permits to be outstanding, an advance or credit facility, in favour, or on behalf, of a company which the institution holds a beneficial interest of more than twenty-five per cent of the share capital, commits a violation and is liable, upon assessment, to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (4) An officer of an institution found liable for the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (5) An institution found liable for the violation in paragraph (3) and continues to commit the violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (3).
- (6) An officer—
  - (a) of an institution found liable for the violation in paragraph (5); and
  - (b) found liable for the violation in paragraph (4),commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (3).
- (7) This regulation shall not apply where the company referred to in paragraph (1) is an institution.

**26. Unsecured advances to employees or associates**

- (1) An institution which, in Kenya, grants an unsecured advance to an employee of the institution or an associate of the employee, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (4) An officer—
  - (a) of an institution found liable for the violation in paragraph (3); and

- (b) found liable for the violation in paragraph (2), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (5) An institution which, in Kenya, permits to be outstanding an unsecured advance to an employee of the institution or an associate of the institution commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (6) An officer of an institution found liable for the violation in paragraph (5), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (7) An institution found liable for the violation in paragraph (5) and continues to commit the violation in paragraph (5), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (5).
- (8) An officer—
  - (a) of an institution found liable for the violation in paragraph (7); and
  - (b) found liable for the violation in paragraph (6),commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (5).

## 27. Unsecured or not fully secured advances

- (1) An institution which, in Kenya, grants an advance, loan or credit facility, that is unsecured or not fully secured, to—
  - (a) an officer;
  - (b) a significant shareholder;
  - (c) an associate of an officer;
  - (d) an associate of a significant shareholder;
  - (e) a person of whom an officer or significant shareholder of the institution has an interest in as an agent, director, manager or shareholder; or
  - (f) a person of whom an officer or significant shareholder of the institution is a guarantor,commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (4) An officer—
  - (a) of an institution found liable for the violation in paragraph (3); and

- (b) found liable for the violation in paragraph (2), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (5) An institution which, in Kenya, permits to be outstanding an advance, loan or credit facility, that is unsecured or not fully secured to—
- (a) an officer;
  - (b) a significant shareholder;
  - (c) an associate of an officer;
  - (d) an associate of a significant shareholder;
  - (e) a person of whom an officer or significant shareholder of the institution has an interest in as an agent, director, manager or shareholder; or
  - (f) a person of whom an officer or significant shareholder of the institution is a guarantor,
- commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided, by the institution.
- (6) An officer of an institution found liable for the violation in paragraph (5), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (7) An institution found liable for the violation in paragraph (5) and continues to commit the violation in paragraph (5), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (5).
- (8) An officer—
- (a) of an institution found liable for the violation in paragraph (7); and
  - (b) found liable for the violation in paragraph (6),
- commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (5).

## 28. Advances to officers

- (1) An institution which, in Kenya, grants an advance, loan or credit facility to its officers —
- (a) without the approval of the full Board of the directors of the institution;
  - (b) not in the normal course of business;
  - (c) on different terms than the terms of an advance, loan or credit facility offered to ordinary customers of the institution; and
  - (d) without notifying the Central Bank within seven days of the approval referred to in subparagraph (a),
- commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

- (3) An institution found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (4) An officer —
- (a) of an institution found liable for the violation in paragraph (3); and
  - (b) found liable for the violation in paragraph (2), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (5) An institution which, in Kenya, permits to be outstanding an advance, loan or credit facility to its officers —
- (a) without the approval of the full Board of the directors of the institution;
  - (b) not in the normal course of business;
  - (c) on different terms than the terms of an advance, loan or credit facility offered to ordinary customers of the institution; and
  - (d) without notifying the Central Bank within seven days of the approval referred to in sub-paragraph (a),
- commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (6) An officer of an institution found liable for the violation in paragraph (5), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (7) An institution found liable for the violation in paragraph (5) and continues to commit the violation in paragraph (5), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (5).
- (8) An officer —
- (a) of an institution found liable for the violation in paragraph (7); and
  - (b) found liable for the violation in paragraph (6),
- commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (5).

## 29. Advances of more than twenty percent of core capital

- (1) An institution which, in Kenya—
- (a) grants an advance or credit facility;
  - (b) gives a financial guarantee; or
  - (c) incurs any other liability;

in the aggregate, amounting to more than twenty per cent of the core capital of the of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution which, in Kenya permits to be outstanding an advance or credit facility in the aggregate, amounting to more than twenty per cent of the core capital of the of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (4) An officer of an institution found liable for the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (5) An institution found liable for the violation in paragraph (3) and continues to commit the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (3).
- (6) An officer—
  - (a) of an institution found liable for the violation in paragraph (5); and
  - (b) found liable for the violation in paragraph (4),commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (3).
- (7) This regulation shall only apply where the person to whom, in favour or on behalf of, is —
  - (a) an employee;
  - (b) an officer;
  - (c) an associate of an officer or an employee;
  - (d) a significant shareholder;
  - (e) a person of whom an officer or significant shareholder of the institution, has an interest in as an agent, director, manager or shareholder; or
  - (f) a person of whom an officer, or significant shareholder, of the institution is a guarantor.
- (8) The aggregate referred to in this regulation shall include the advance or credit facility, financial guarantee, and the liability of the associates of a person referred to in paragraph (7).

### **30. Advances of more than one hundred percent of the core capital**

- (1) An institution which, in Kenya—
  - (a) grants an advance or credit facility;
  - (b) gives a financial guarantee; or
  - (c) incurs any other liability,in the aggregate, amounting to more than one hundred per cent of the core capital of the of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided, by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

- (3) An institution which, in Kenya permits to be outstanding an advance or credit facility in the aggregate, amounting to more than one hundred percent of the core capital of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided, by the institution.
- (4) An officer of an institution found liable for the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (5) An institution found liable for the violation in paragraph (3) and continues to commit the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (3).
- (6) An officer—
  - (a) of an institution found liable for the violation in paragraph (5); and
  - (b) found liable for the violation in paragraph (4),commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (3).
- (7) This regulation shall only apply where the person to whom, in favour or on behalf of is—
  - (a) an employee;
  - (b) an officer;
  - (c) a significant shareholder;
  - (d) a person of whom an officer or significant shareholder of the institution, has an interest in as an agent, director, manager or shareholder; or
  - (e) a person of whom an officer or significant shareholder of the institution is a guarantor.
- (8) The aggregate referred to in this regulation shall include the advance or credit facility, financial guarantee and the liability of the associates of a person referred to in paragraph (5).

### 31. Advances issued fraudulently or recklessly

- (1) An institution which, in Kenya—
  - (a) grants an advance or credit facility;
  - (b) gives a financial guarantee; or
  - (c) incurs any other liability,in a fraudulent or reckless manner commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided, by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) In paragraph (1)—

"fraudulent" includes intentional deception, false and material representation, concealment or non-disclosure of a material fact or misleading conduct, a device or contrivance, that results in loss and

injury to the institution, with an intended gain to the officer of the institution or to a customer of the institution; and

"reckless" includes—

- (a) transacting business beyond the limits set under this Act or the Central Bank Act (Cap. 491);
- (b) offering facilities contrary to any guidelines or regulations issued by the Central Bank;
- (c) not observing the institution's policies as approved by the Board of Directors; and
- (d) misuse of position or facilities of the institution for personal gain.

### 32. Non-compliance with direction to suspend or terminate an officer

- (1) An institution which does not comply with a direction of the Central Bank made under section 11(3) (b) of the Act to—

- (a) suspend an officer or employee of the institution from holding office; or
- (b) terminate the appointment of the director to whom an advance, loan or credit facility was issued from the board of directors of the institution,

commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

- (3) An officer—

- (a) of an institution found liable for the violation in paragraph (1); and
- (b) found liable for the violation in paragraph (2),

commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).

### 33. Holding office as disqualified director

- (1) A director of an institution who continues to hold office after being disqualified for defaulting in the repayment of an advance or loan, made to the director by the institution, for three consecutive months, commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (2) A director of an institution found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (3) An institution which permits a director of an institution who was disqualified for defaulting in the repayment of an advance or loan, made to the director by the institution, for three consecutive months, to continue to hold office commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (4) An officer of an institution found liable for the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (5) An institution found liable for the violation in paragraph (3) and continues to commit the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding

one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (3).

(6) An officer—

- (a) of an institution found liable for the violation in paragraph (5); and
- (b) found liable for the violation in paragraph (4),

commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (3).

#### **34. Trade for purposes other than debt satisfaction**

- (1) An institution which engages in wholesale or retail trade, import or export trade, for any purpose other than to satisfy the debts of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding eight million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding four hundred thousand shillings.

#### **35. Holding interest in an undertaking**

- (1) An institution which holds shares or the beneficial interest, in an undertaking of the institution, that exceeds twenty-five percent of the core capital of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) This regulation shall not apply where—
  - (a) the institution takes an interest in an undertaking in satisfaction of a debt due to the institution and disposes of the interest within the time allowed by the Central Bank;
  - (b) the institution holds shares in a corporation established to promote development in Kenya, and approved by the Cabinet Secretary; or
  - (c) the institution holds shares in a foreign company licensed to carry on the business of the institution in its country of incorporation and approved by the Central Bank.

#### **36. Holding interest in land**

- (1) An institution which holds an interest in land for the purpose of conducting business, housing or providing amenities for the employees of the institution, that exceeds twenty percent of the core capital of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty thousand shillings.
- (3) This regulation shall not apply where—
  - (a) the institution leases part of a building to conduct business;
  - (b) the institution holds land as security for a debt; or
  - (c) the institution holds land for the development of the institution.

### 37. Holding interest in the share capital

- (1) A person, or an associate of the person, who holds a beneficial interest of more than twenty-five percent of the share capital of an institution, commits a violation and is liable, upon assessment—
  - (a) where the shareholder is an institution, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided, by the institution;
  - (b) where the shareholder is a corporate body, to a penalty not exceeding three million shillings; or
  - (c) where the shareholder is a natural person, to a penalty not exceeding one million shillings.
- (2) An institution which permits a person, or the associates of the person, to hold a beneficial interest of more than twenty-five percent of the share capital of the institution, commits a violation and is liable, upon assessment to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (3) An officer of an institution found liable for the violation in paragraph (2), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (4) This regulation shall not apply where the person referred to in paragraph (1) is—
  - (a) another institution;
  - (b) the Government of Kenya or the Government of a foreign sovereign State;
  - (c) a State corporation;
  - (d) a foreign company which is licensed to carry on the business of an institution in its country of incorporation; or
  - (e) a non-operating holding company approved by the Central Bank.

### 38. Holding interest without approval

- (1) A non-operating holding company which holds a beneficial interest of more than twenty-five percent of the share capital of an institution without the approval of the Central Bank, commits a violation and is liable, upon assessment—
  - (a) where the shareholder is an institution, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution;
  - (b) where the shareholder is a corporate body, to a penalty not exceeding three million shillings; or
  - (c) where the shareholder is a natural person, to a penalty not exceeding one million shillings.
- (2) An institution which permits a non-operating holding company to hold a beneficial interest of more than twenty-five percent of the share capital of the institution without the approval of the Central Bank, commits a violation and is liable, upon assessment to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (3) An officer of an institution found liable for the violation in paragraph (2), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

- (4) A financial institution or a mortgage finance company which holds a beneficial interest in a bank commits a violation and is liable, upon assessment—
  - (a) where the shareholder is a financial institution or a mortgage finance company, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the financial institution;
  - (b) where the person is a corporate body, to a penalty not exceeding three million shillings; and
  - (c) where the shareholder is a natural person, to a penalty not exceeding one million shillings.
- (5) A bank which permits a financial institution or a mortgage finance company to hold a beneficial interest in the bank, commits a violation and is liable, upon assessment to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the bank.
- (6) An officer of an institution found liable for the violation in paragraph (5), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

### **39. Non-disclosure of ultimate beneficial owner**

- (1) A shareholder who does not disclose to the institution and to the Central Bank the full particulars of the ultimate beneficial owner of the shareholder commits a violation and is liable, upon assessment—
  - (a) where the shareholder is an institution, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution;
  - (b) where the shareholder is a corporate body, to a penalty not exceeding three million shillings; and
  - (c) where the shareholder is a natural person, to a penalty not exceeding one million shillings.
- (2) A bank which does not request for the full particulars of the ultimate beneficial owner of the shareholders of the institution commits a violation and is liable upon assessment to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the bank.
- (3) An officer of an institution found liable for the violation in paragraph (2), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

### **40. Transfer of share capital without approval**

- (1) An institution which transfers more than five per cent of the share capital of the institution without the approval of the Central Bank, commits a violation and is liable, upon assessment—
  - (a) where the shareholder is an institution, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution;
  - (b) where the shareholder is a corporate body, to a penalty not exceeding three million shillings; and
  - (c) where the shareholder is a natural person, to a penalty not exceeding one million shillings.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

#### 41. Advances for land

- (1) An institution which makes loans or advances for the purchase, improvement or alteration of land, whose aggregate amount exceeds forty percent of the total deposit liabilities of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty thousand shillings.
- (3) An institution which makes loans or advances for the purchase, improvement or alteration of land, whose aggregate amount exceeds the total deposit liabilities of the institution commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (4) An officer of an institution found liable for the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty thousand shillings.
- (5) This regulation shall not apply to a mortgage finance company.

#### 42. Charges on savings, call or fixed deposit accounts

- (1) An institution which imposes a charge on a savings, seven-day call or fixed deposit account, commits a violation and is liable, upon assessment, to a penalty not exceeding two million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings.

#### 43. Non-payment of interest accrued or return

- (1) An institution which does not pay—
  - (a) interest accruing on a savings account; or
  - (b) a return on a savings account,commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty thousand shillings.
- (3) Paragraph (1) shall only apply to savings accounts for which the minimum balance is maintained.
- (4) An institution which does not pay interest accruing to a seven-day call or fixed deposit account on the agreed contractual terms commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (5) An officer of an institution found liable for the violation paragraph (4) commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty thousand shillings.
- (6) Paragraph (4) shall not apply where the deposit in the a seven-day call or fixed deposit account is uplifted before the maturity date.

#### 44. Non-maintenance of ratio of core capital to total deposit liabilities

- (1) An institution which does not maintain a minimum core capital of eight per cent of the total deposit liabilities of the institution, commits a violation and is liable, upon assessment, to a penalty

not exceeding fifteen million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (4) An officer—
  - (a) of an institution found liable for the violation in paragraph (3); and
  - (b) found liable for the violation in paragraph (2),

commits a violation and is liable, upon assessment, to a penalty not exceeding fifty thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).

#### **45. Non-maintenance of core capital to risk weighted assets ratio**

- (1) An institution which does not maintain a minimum core capital to risk weighted assets ratio of ten-point-five percent, commits a violation and is liable, upon assessment, to a penalty not exceeding fifteen million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (4) An officer—
  - (a) of an institution found liable for the violation in paragraph (3); and
  - (b) found liable for the violation in paragraph (2),

commits a violation and is liable, upon assessment, to a penalty not exceeding fifty thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).

#### **46. Non-maintenance of total risk weighted assets ratio**

- (1) An institution which does not maintain a minimum total risk weighted assets ratio of fourteen-point-five percent commits a violation and is liable, upon assessment, to a penalty not exceeding fifteen million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).

- (4) An officer—
- (a) of an institution found liable for the violation in paragraph (3); and
  - (b) found liable for the violation in paragraph (2),

commits a violation and is liable, upon assessment, to a penalty not exceeding fifty thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).

#### **47. Non-maintenance of minimum core capital to total deposit liabilities ratio**

- (1) A non-operating holding company or vehicle of ownership of a group, which does not maintain a minimum core capital to total deposit liabilities ratio of eight percent, commits a violation and is liable, upon assessment, to a penalty not exceeding fifteen million shillings or three times the gross amount of the monetary gain made or loss avoided by the non-operating holding company or vehicle of ownership of a group.
- (2) A non-operating holding company or vehicle of ownership of a group, found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the non-operating holding company or vehicle of ownership of a group, continues to commit the violation in paragraph (1).

#### **48. Non-maintenance of minimum core capital to total risk weighted assets ratio**

- (1) A non-operating holding company or vehicle of ownership of a group, which does not maintain a minimum core capital to total risk weighted assets ratio of ten-point five percent, commits a violation and is liable, upon assessment, to a penalty not exceeding fifteen million shillings or three times the gross amount of the monetary gain made or loss avoided by the non-operating holding company or vehicle of ownership of a group.
- (2) A non-operating holding company or vehicle of ownership of a group, found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the non-operating holding company or vehicle of ownership of a group, continues to commit the violation in paragraph (1).

#### **49. Non-maintenance of minimum total capital to total risk weighted assets ratio**

- (1) A non-operating holding company or vehicle of ownership of a group, which does not maintain a minimum total capital to total risk weighted assets ratio of fourteen-point five percent, commits a violation and is liable, upon assessment, to a penalty not exceeding fifteen million shillings or three times the gross amount of the monetary gain made or loss avoided by the non-operating holding company or vehicle of ownership of a group.
- (2) A non-operating holding company or vehicle of ownership of a group, found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the non-operating holding company or vehicle of ownership of a group, continues to commit the violation in paragraph (1).

#### **50. Non-maintenance of minimum liquidity ratio**

- (1) A non-operating holding company or vehicle of ownership of a group, which does not maintain a minimum liquidity ratio of twenty percent, commits a violation and is liable, upon assessment, to a penalty not exceeding fifteen million shillings or three times the gross amount of the monetary gain made or loss avoided by the non-operating holding company or vehicle of ownership of a group.

- (2) A non-operating holding company or vehicle of ownership of a group, found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the non-operating holding company or vehicle of ownership of a group continues to commit the violation in paragraph (1).

#### **51. Dividends without writing off capitalized expenditure**

- (1) An institution incorporated in Kenya, which pays a dividend on the shares of the institution or other form of distribution, without writing off all the capitalised expenditure and making a provision for loans, advances and other assets of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

#### **52. Not providing for advances before declaring profit or loss**

- (1) An institution which does not make a provision for loans, advances and other assets, before declaring a profit or loss, commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution found liable for the violation in paragraph (1) and continues to commit the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (4) An officer—
  - (a) of an institution found liable for the violation in paragraph (3); and
  - (b) found liable for the violation in paragraph (2),commits a violation and is liable, upon assessment, to a penalty not exceeding fifty thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (1).
- (5) A provision for loans, advances and other assets referred to in paragraph (1) which are to be made by an institution, shall be in the following manner—
  - (a) for loans and advances classified as "normal", one percent;
  - (b) for loans and advances classified as "watch", three percent;
  - (c) for loans and advances classified as "substandard", twenty percent;
  - (d) for loans and advances classified as "doubtful", one hundred percent; and
  - (e) for loans, and advances classified as "loss", one hundred percent.

#### **53. Non-maintenance of books, accounts and records**

- (1) An institution which does not record entries in books commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

- (2) An officer of an institution found liable for the violation in paragraph (1) is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution which does not record entries and all accounts in the English language, using the system of numerals employed in Government accounts commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (4) An officer of an institution found liable for the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty thousand shillings.
- (5) An institution which does not maintain books, records or information, as directed by the Central Bank, commits a violation and is liable, upon assessment, to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (6) An officer of an institution found liable for the violation in paragraph (5), commits a violation and is liable, upon assessment, to a penalty not exceeding five hundred thousand shillings.
- (7) An institution which does not prepare financial statements in accordance with international financial reporting standards and applicable consolidated accounting principles for groups, commits a violation and is liable, upon assessment, to a penalty not exceeding fifteen million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (8) An officer of an institution found liable for the violation in paragraph (7), commits a violation and is liable, upon assessment, to a penalty not exceeding seven hundred and fifty thousand shillings.

#### **54. Publication of audited financial statements**

- (1) An institution which does not exhibit the last audited financial statements and the full and correct names of the officers of the institution in Kenya, throughout the year, in a conspicuous position in every office and branch in Kenya, and in conformity with the minimum financial disclosure requirements specified in the Central Bank of Kenya Prudential Guidelines on Publication of Financial Statements and Other Disclosures, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An institution which does not, within three months after the end of each financial year, publish the balance sheet and last audited income statements for that financial year in a newspaper with wide circulation, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (3) An officer of an institution found liable for the violation in paragraph (1) or (2), commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty thousand shillings.

#### **55. Submission of audited balance sheet**

- (1) An institution which does not, within three months after the end of its financial year, submit to the Central Bank—
  - (a) an audited balance sheet, showing its assets and liabilities in Kenya;
  - (b) an audited profit and loss account covering its activities in Kenya; and
  - (c) the auditor's report,

prepared in the form specified in the Central Bank of Kenya Prudential Guideline on Publication of Financial Statements and Other Disclosures commits a violation and is liable, upon assessment, to

a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding five hundred thousand shillings.

## 56. Auditors

- (1) An institution which –
  - (a) does not appoint an auditor; or
  - (b) appoints an auditor who has not been approved by the Central Bank;commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1) commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty thousand shillings.
- (3) An auditor appointed by an institution who does not audit and prepare a report on the annual balance sheet and profit and loss account of the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (4) An auditor who does not undertake the duties under section 24(1A) of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (5) An auditor who does not undertake the duties required of the Auditor by the Central Bank under section 24(3) of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (6) An auditor of an institution who determines that the circumstances specified in section 24(4) of the Act have occurred and does not report the occurrence to the Central Bank, commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (7) An institution or auditor who does not attend a trilateral meeting arranged by the Central Bank under section 24(5) of the Act, commits a violation and is liable, upon assessment—
  - (a) for the institution, to a penalty not exceeding five million shillings; and
  - (b) for the auditor, to a penalty not exceeding one million shillings.
- (8) An institution which appoints a person who is not qualified under section 24(7) of the Act as an auditor, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings.
- (9) An institution which terminates the appointment of an auditor or appoints a new auditor without the approval of the Central Bank, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided, by the institution.
- (10) An auditor of an institution who does not submit a written notice to the Central Bank in accordance with section 25(2) of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.

## 57. Non-submission of information

- (1) An institution which does not submit information as requested by the Central Bank in accordance with section 27 of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided, by the institution.

- (2) An officer of an institution found liable for the violation in paragraph (1) commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty thousand shillings.
- (3) An associate, non-operating holding company, subsidiary company or significant shareholder of an institution, that does not submit the information or documents as requested by the Central Bank in accordance with section 28(3) of the Act commits a violation and is liable, upon assessment—
  - (a) where the associate, non-operating holding company, subsidiary company or significant shareholder is a corporate body, to a penalty not exceeding two million shillings; and
  - (b) where the associate or significant shareholder is a natural person, to a penalty not exceeding one million shillings.
- (4) An institution which does not submit information as requested by the Cabinet Secretary in accordance with section 29 of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (5) An officer of an institution found liable for the violation in paragraph (4), commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty thousand shillings.

## 58. Disclosure of information

- (1) A person who discloses or publishes information obtained in the performance of the responsibilities of the person under the Act, commits a violation and is liable, upon assessment—
  - (a) where the person is a corporate body, to a penalty not exceeding two million shillings; and
  - (b) where the person is a natural person, to a penalty not exceeding one million shillings.
- (2) An institution or officer that discloses information obtained in the performance of the responsibilities of the institution or officer under the Act in bad faith commits a violation and is liable, upon assessment—
  - (a) in case of the institution, to a penalty not exceeding two million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution; and
  - (b) in the case of the officer, to a penalty not exceeding one million shillings.
- (3) An institution that engages in cross-border sharing of credit information without—
  - (a) a mutual legal framework for the sharing of credit information; and
  - (b) verifying that the request for the information is made in the discharge of a lawful duty of the person making the request,commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (4) An officer of an institution found liable for the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty thousand shillings.

## 59. Non-disclosure of terms of loans

- (1) A bank or financial institution which does not disclose to a borrower all the charges and terms of a loan before granting the loan to the borrower, commits a violation and is liable, upon assessment, to a penalty not exceeding two million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of a bank or financial institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings.

## 60. Non-maintenance of register of next of kin

- (1) A bank or financial institution which does not maintain a register of the next of kin of all customers operating accounts held by the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the bank or financial institution.
- (2) An officer of a bank or financial institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty hundred thousand shillings.
- (3) A bank or financial institution which does not annually update the register of the next of kin of all customers operating accounts held by the institution, commits a violation and is liable, upon assessment, to a penalty not exceeding two million shillings or three times the gross amount of the monetary gain made or loss avoided by the bank or financial institution.
- (4) An officer of a bank or financial institution found liable for the violation in paragraph (3) commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings.

## 61. Inspection of books, accounts and records

- (1) An institution or agency of an institution which—
  - (a) obstructs the Central Bank from conducting an inspection of the books, accounts and records of the institution or agency; or
  - (b) does not avail to the Central Bank the books, accounts and records of the institution or agency,  
commits a violation and is liable, upon assessment, to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution or agency of the institution.
- (2) An officer of a bank or financial institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution which does not comply with the directions of the Central Bank issued under section 33 of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (4) An officer of an institution found liable for the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding five hundred thousand shillings.
- (5) An institution found liable for the violation in paragraph (3) and continues to commit the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (3).
- (6) An officer—
  - (a) of an institution found liable for the violation in paragraph (5); and
  - (b) found liable for the violation in paragraph (4),  
commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the institution continues to commit the violation in paragraph (3).

- (7) An institution which does not comply with a direction of the Central Bank made under section 33A of the Act to—
- (a) restrict, suspend or prohibit the payment of dividends by the institution;
  - (b) prohibit the conversion of profits of the institution into capital;
  - (c) suspend or terminate the appointment of an officer of the institution;
  - (d) reconstitute the board of directors of the institution;
  - (e) submit to the Central Bank a capital restoration plan to restore the institution to capital adequacy;
  - (f) prohibit the institution from awarding bonuses or increments in salary, emoluments or other benefits to the directors and officers of the institution;
  - (g) restrict the growth of assets or liabilities of the institution; or
  - (h) restrict the rate of interest on savings and time deposits payable by the institution,
- commits a violation and is liable, upon assessment, to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (8) An officer of an institution found liable for the violation in paragraph (7), commits a violation and is liable, upon assessment, to a penalty not exceeding five hundred thousand shillings.
- (9) An institution which does not comply with a direction of the Central Bank made under section 34(2) of the Act to—
- (a) restrict the institution from engaging in new foreign exchange business;
  - (b) prohibit the institution from engaging in new off-balance sheet transactions;
  - (c) prohibit the institution from engaging any new agents; or
  - (d) direct the institution to terminate any agency arrangement,
- commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (10) An officer of an institution found liable for the violation in paragraph (9), commits a violation and is liable, upon assessment, to a penalty not exceeding two hundred and fifty thousand shillings.

## 62. Bad faith action by appointed, designated or approved persons

A person who was appointed, designated or approved, by the Central Bank under Part VII of the Act, and whose acts or omissions in the performance of the responsibilities of the person under the Act were in bad faith, commits a violation and is liable, upon assessment to a penalty not exceeding five million shillings.

## 63. Winding up of institutions

- (1) An institution which is able to meet all the liabilities of the institution and undertakes voluntary liquidation without the approval of the Central Bank, commits a violation and is liable, upon assessment to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) An institution which carries on banking business or the business of a mortgage finance company after receiving an approval from the Central Bank to voluntarily wind up, commits a violation and is liable, upon assessment to a penalty not exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.

- (4) An officer of an institution found liable for the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (5) This regulation shall not apply where the institution carries out such activities as are incidental to the orderly realisation, conservation and preservation of its assets and settlement of the obligations of the institution.

#### **64. Liquidators**

- (1) An officer who does not comply with a requirement of a liquidator appointed under section 35 of the Act, commits a violation and is liable, upon assessment to a penalty not exceeding one million shillings.
- (2) An officer who obstructs a liquidator appointed under section 35 of the Act, commits a violation and is liable, upon assessment to a penalty not exceeding one million shillings.
- (3) An officer who provides false or misleading information to a liquidator appointed under section 35 of the Act, commits a violation and is liable, upon assessment to a penalty not exceeding one million shillings.

#### **65. Administrators**

- (1) An officer who does not comply with a requirement of an administrator appointed under section 35B of the Act, commits a violation and is liable, upon assessment to a penalty not exceeding one million shillings.
- (2) An officer who obstructs an administrator appointed under section 35B of the Act, commits a violation and is liable, upon assessment to a penalty not exceeding one million shillings.
- (3) An officer who provides false or misleading information to an administrator appointed under section 35B of the Act commits a violation and is liable, upon assessment to a penalty not exceeding one million shillings.

#### **66. Establishment of representative offices**

- (1) A bank or a financial institution incorporated outside Kenya which establishes a representative office in Kenya without the approval of the Central Bank, commits a violation and is liable, upon assessment to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the bank or financial institution.
- (2) An officer of a bank or a financial institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (3) A bank or a financial institution incorporated outside Kenya which operates a place of business in Kenya without the approval of the Central Bank, commits a violation and is liable, upon assessment to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (4) An officer of a bank or a financial institution found liable for the violation in paragraph (3), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (5) A representative office which does not submit the information requested by the Central Bank under section 43(3) of the Act, commits a violation and is liable, upon assessment, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided by the representative office.
- (6) An officer of a representative office found liable for the violation in paragraph (5), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (7) A representative office which does not comply with the directions of the Central Bank made under section 43(4) of the Act, commits a violation and is liable, upon assessment, to a penalty not

exceeding twenty million shillings or three times the gross amount of the monetary gain made or loss avoided by the representative office.

- (8) An officer of a representative office found liable for the violation in paragraph (7), commits a violation and is liable, upon assessment, to a penalty not exceeding one million shillings.
- (9) A representative office found liable for the violation in paragraph (7) and continues to commit the violation in paragraph (7), commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the representative office continues to commit the violation in paragraph (7).
- (10) An officer—
  - (a) of a representative office found liable for the violation in paragraph (9); and
  - (b) found liable for the violation in paragraph (8),commits a violation and is liable, upon assessment, to a penalty not exceeding one hundred thousand shillings for each day, or part of each day, that the representative office continues to commit the violation in paragraph (7).

#### **67. Increasing charges without approval**

- (1) An institution which increases the rate of banking or any other charge of the institution, without the approval of the Cabinet Secretary, commits a violation and is liable, upon assessment to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding five hundred thousand shillings.

#### **68. Recovery of excess amounts from non-performing loan**

- (1) An institution which recovers from a debtor of a non-performing loan, an amount exceeding—
  - (a) the principal amount due when the loan becomes non-performing;
  - (b) the interest, in accordance with the contract between the debtor and the institution; and
  - (c) the expenses incurred in the recovery of the amount,commits a violation and is liable, upon assessment to a penalty not exceeding ten million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding five hundred thousand shillings.

#### **69. Closing when it is not bank holiday or public holiday**

- (1) An institution or branch which remains closed on a day or part thereof which is not a bank holiday or public holiday, without the authorization of the Central Bank, commits a violation and is liable, upon assessment to a penalty not exceeding one million shillings or three times the gross amount of the monetary gain made or loss avoided by the institution.
- (2) An officer of an institution or branch found liable for the violation in paragraph (1), commits a violation and is liable, upon assessment, to a penalty not exceeding fifty thousand shillings.

## 70. False advertising

- (1) An institution or person that publishes an advertisement, which falsely represents that the institution or person is authorised to accept deposits or licensed under the Act, commits a violation and is liable, upon assessment—
  - (a) in relation to the institution, to a penalty not exceeding two million shillings or three times the gross amount of the monetary gain made or loss avoided, by the institution; and
  - (b) in relation to a natural person, to a penalty not exceeding one hundred thousand shillings.
- (2) An institution or person that publishes an advertisement which does not comply with a direction issued by the Central Bank under section 51(2) of the Act, commits a violation and is liable, upon assessment—
  - (a) in relation to the institution, to a penalty not exceeding five million shillings or three times the gross amount of the monetary gain made or loss avoided, by the institution; and
  - (b) in relation to a natural person, to a penalty not exceeding two hundred and fifty thousand shillings.

## Part III – ASSESSMENT OF VIOLATIONS

### 71. Notice of intended assessment

- (1) Where the Central Bank suspects that a violation was committed, the Central Bank shall issue a written notice of intended assessment to the person suspected of committing a violation.
- (2) The notice referred to in paragraph (1) shall contain —
  - (a) the violation the Central Bank suspects was committed;
  - (b) a description of the facts or circumstances suspected to constitute the violation;
  - (c) a description of the persons suspected to be involved in the violation;
  - (d) the period when the violation is suspected to have occurred; and
  - (e) the period within which the person may show cause why a penalty should not be imposed and produce any evidence in response to the suspected violation.
- (3) The period referred to in paragraph (2)(e) shall be at least fourteen days from the date the notice is received by the person.

### 72. Response to notice of intended assessment

- (1) Upon receiving the notice issued under regulation 71, a person suspected to have committed the violation may make a verbal response or submit a written response to the violation specified in the notice.
- (2) A person suspected to have committed the violation may submit such documents or other forms of proof as the person considers necessary within seven days of making the verbal response or submitting the written response under paragraph (1).
- (3) Where the Central Bank has not received a response under paragraphs (1) or (2), or where the response is submitted after the period specified in regulation 71(3), the Central Bank shall assess the suspected violation.
- (4) Despite paragraph (3), the Central Bank may, upon a request for the extension of the period under regulation 71(3) made in writing by a person to whom the notice was issued, consider the response made by the person.

### 73. Conduct of assessment

- (1) Upon receipt of a response made under regulation 72, the Central Bank shall assess the suspected violation to determine—
  - (a) whether the person is liable to pay the penalty;
  - (b) where the person is liable, the amount of the penalty to be imposed; and
  - (c) whether the person is not liable.
- (2) The Central Bank shall assess a suspected violation within thirty days from—
  - (a) the date the Central Bank receives a response under regulation 72; or
  - (b) where no response is submitted, the date the notice issued under regulation 71 is received by the person suspected to have committed the violation.

### 74. Determination of assessment

Within seven days of making a determination under regulation 73, the Central Bank shall issue a notice to the person who was suspected of committing a violation, specifying—

- (a) the violation for which the assessment was made;
- (b) the amount of the penalty imposed;
- (c) the period within which the penalty imposed is to be paid;
- (d) the manner in which the penalty imposed is to be paid;
- (e) the identity of the person who is to pay the penalty imposed; and
- (f) where the Central Bank determines that the person suspected of committing the violation is not liable, the dismissal of the assessment.

## Part IV – IMPOSITION OF PENALTIES

### 75. Consideration in determining amount of penalty

Where the Central Bank determines that a person suspected of committing a violation is liable, the Central Bank shall consider the following in determining the amount to be imposed as a penalty—

- (a) whether the violation was committed by an institution, officer, shareholder, non-operating holding company, bank, financial institution, representative office, auditor, group, vehicle of ownership of a group, agency or any other person;
- (b) the nature of the violation;
- (c) the severity of the violation;
- (d) the impact of the violation on the person found liable for committing the violation and any other person;
- (e) the benefit that may have derived from the commission of the violation by the person found liable for committing the violation, or by any other person;
- (f) the financial loss, or other form of loss, suffered or likely to be suffered by the depositors, creditors or shareholders of the institution, any other person or the person found liable for committing the violation;
- (g) the circumstances under which the violation was committed;

- (h) the financial condition of the person found liable for committing the violation;
- (i) any previous penalty imposed for the commission of a similar violation;
- (j) any previous penalty imposed on the person found liable for committing the violation;
- (k) the effect of the violation on public interest;
- (l) where the Central Bank determines that the person liable for the commission of the violation is a natural person, the identity, rank and job description of the person found liable for committing the violation;
- (m) whether the impact of the violation was remedied by the person found liable for committing the violation;
- (n) whether the impact of the violation is capable of being remedied by the person found liable for committing the violation;
- (o) whether the amount of the penalty imposed is likely to render the person found liable for committing the violation unable to function properly; and
- (p) whether the amount of the penalty imposed is capable of deterring person found liable for committing the violation, from committing a similar violation; and
- (q) whether the amount of the penalty imposed is reasonably commensurate to the severity of the violation.

#### **76. Separate penalty for each violation and each person**

The Central Bank shall impose a separate penalty for each violation for each person found liable for committing the violation on a case by case basis.

#### **77. Commensurate penalty to severity of violation**

The Central Bank shall impose a penalty that is reasonable, effective and commensurate to the severity, impact or likely impact of a violation.

#### **78. Imposition of penalty upon natural persons**

- (1) Where the Central Bank imposes a penalty for a violation which was committed by a body corporate and whose liability includes a penalty to a natural person, the Central Bank may impose the penalty upon the natural person either individually or jointly with the corporate body.
- (2) A penalty imposed upon a natural person shall only be payable from the resources of the natural person.

### **Part V – REVIEW OF ASSESSMENTS**

#### **79. Request for review**

A person who is aggrieved by a determination of the Central Bank made under regulation [74](#), may, within fourteen days from the date of receipt of the notice of the determination, submit a written request to the Central Bank for review of the determination.

#### **80. Consideration of request for review**

- (1) When considering a request made under regulation [79](#), the Central Bank may invite the person who made the request to submit written representations, or such additional information, as the Central Bank considers necessary to make a determination.

- (2) The Central Bank shall make the determination under paragraph (1) within thirty days after receiving the request, issue a notice, in writing, to the person who made the request of the determination and the reasons for the determination.

### **81. Appeal**

A person aggrieved by the determination of the Central Bank made under regulation 74 or 80 may appeal to the High Court.

## **Part VI – PAYMENT OF PENALTIES**

### **82. Duty to pay penalty**

Upon receipt of the notice issued under regulation 74 or 80 a person found liable for committing the violation shall pay the amount assessed as a penalty to the Central Bank within the time and in the manner specified in the notice.

### **83. Default in payment of penalty**

Where a person found liable for committing the violation does not comply with regulation 82, the amount due shall constitute a civil debt due to the Central Bank.

### **84. Restriction on payment of penalty imposed on natural person by a corporate body**

Where the Central Bank imposes a penalty upon a natural person, the penalty shall not be paid by a corporate body on behalf of the natural person.

## **Part VII – MISCELLANEOUS**

### **85. Revocation Sub. Leg**

The Banking (Penalties) Regulations are revoked.

### **86. Transition**

Any violations committed under the Regulations revoked under regulation 85 which are under review and examination by the Central Bank, at the time of coming into force of these Regulations, shall be finalized in accordance with these Regulations, without prejudice to the validity of the review and examination that was previously done.