



**CMA CIRCULAR NO. 8/2016**

**AUGUST 22, 2016**

**TO: ALL MARKET INTERMEDIARIES**

**RE: DISCONTINUATION OF THE CASH MANAGEMENT SERVICES/  
PRODUCT AND GUIDANCE ON CONDUCTING UNREGULATED  
ACTIVITIES**

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Reference is made to the above subject.

The Authority is committed to facilitating the operation of an efficient capital markets where market participants are assured of a fair and efficient foundation. In this regard and in execution of the Authority's mandate to protect investors, the Authority requires that Market Intermediaries maintain due regard to their regulatory obligations to ensure that their operations are conducted honestly, fairly and with appropriate attention given to continuous identification, measurement and mitigation of risk in all their operations. This is in addition to the overall requirement for Market Intermediaries to maintain high standards of market conduct.

The Authority notes the increase in the cash management services/products (CMS/P) being arranged or facilitated by various Capital Market Intermediaries. The mode of operations of the CMS/P is noted to be such that provision of the service is excluded from the ambit of the Capital Market Act and it therefore constitutes an unregulated activity.

Following engagements between the Authority and the Central Bank of Kenya, it has been clarified that, in accordance with the interpretation of Section 2 (1) of the Banking Act and Section 2 of the Microfinance Act, products/ services with respect to CMS/P would be deemed to constitute banking or microfinance business.

The Authority wishes to draw the attention of Market Intermediaries to Section 26(1) (b) of the Capital Markets Act which provides that the Authority may suspend or revoke a license for

such period or until the occurrence of such event as the Authority may specify if a licensed person carries out any activity outside the scope of the licensed or approved activities.

Accordingly, pursuant to Section 11 (3) (d) and (i) of the Capital Markets Act, the Authority hereby directs all Market Intermediaries to cease and desist from any engagement in unregulated activities and that they should only offer products/ services allowable under the Capital Markets Act.

For products being considered to be offered on a principle based approval ground under Section 12A of the Capital Markets Act, the Authority, will appraise itself on risk management and mitigation, governance, safeguarding of investors and reporting and disclosures framework in reviewing applications for approval of such products.

Capital Market Intermediaries are encouraged to familiarize themselves with the regulatory requirements set out in the Capital Markets Act and the respective Regulations and to engage the Authority on areas that require clarification on the regulatory requirements.

In case of any further clarification and/or guidance, kindly contact the Authority.

Yours sincerely



Paul M. Muthaura  
**CHIEF EXECUTIVE**

cc: Kenya Association of Stockbrokers and Investment Banks (KASIB)  
City House, 6th Floor, Wabera Street  
P.O. BOX 43593-00100  
**NAIROBI**

Fund Managers Association (FMA)  
P.O. BOX 27898-00100  
**NAIROBI**  
**Attn: Steve Muriu, Renee Blasky, FMA Secretariat**

Central Bank of Kenya  
Haile Selassie Avenue  
P.O. BOX 60000-00200  
**NAIROBI**