

SPECIAL ISSUE

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THE CAPITAL MARKETS (AMENDMENT) BILL, 2018

A Bill for

AN ACT of Parliament to amend the Capital Markets Act

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Capital Markets (Amendment) Act, 2018. Short title.

2. The Capital Markets Act, (in this Act referred to as “the principal Act”,) is amended in section 2 amended in the definition of “key personnel” by inserting the words “of licensed persons and chief financial officers and Board of Directors of issuers of securities” immediately after the word “manager”. Amendment of section 2 of Cap. 485A.

3. Section 11 of the principal Act is amended in subsection (3)— Amendment of section 11 of Cap. 485A.
 - (a) by deleting the words “in securities” and substituting therefor the words “in an issuer and its securities” in paragraph (t); and
 - (b) by inserting the word “determination of any” in paragraph (u).

4. Section 13B of the Capital Markets Act is amended— Amendment of section 13B of Cap. 485A.
 - (a) in subsection (1), by deleting paragraph (b) and substituting therefor the following new paragraph—
 - “(b) a director, manager or employee of a licensee, approved person or an issuer or any other person, may have engaged in embezzlement, fraud, misfeasance or other misconduct in an issuer, licensee or approved person in connection with its regulated activity.”
 - (b) by adding the following new subsection immediately after subsection (3)—
 - “(4) The Authority may, where satisfied that the capital markets or an investor shall

suffer irreparable damage as a result of an activity under subsection (1), impose an interim measure for not more than three months to prevent further damage pending completion of an of inquiry.”

5. Section 18 of the Capital Markets Act is amended— Amendment of section 18 of Cap. 485A.

(a) by inserting the following new subsection immediately after subsection (2)—

“(2A) The Authority may reward any person who provides new and timely information leading to the recovery of sums of money referred to in subsection (2):

Provided that—

- (a) this provision shall not apply to any officer of the Authority;
- (b) the reward payable under this subsection shall be three per cent of the amount recovered subject to a maximum of five million shillings; and
- (c) the reward referred to in paragraph (a) shall be paid before the recovered sums of money are transferred to the Fund.”

(b) in subsection (3), by deleting the words “Investor Compensation Fund Board in such manner as may be determined by the Investor Compensation Fund Board” and substituting therefor the word “Authority”.

6. The Capital Markets Act is amended by repealing section 18A. Repeal of section 18A of Cap. 485A.

7. Section 25A of the Capital Markets Act is amended— Amendment of section 25A of Cap. 485A.

(a) in subsection (1)—