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LEGAL EXPERTISE, PERSONALIZED SERVICE

LICENSING REQUIREMENTS FOR VIRTUAL ASSET BROKERS IN KENYA

What the Act, the Regulations and the Capital Markets Authority require before you act for clients

AT A GLANCE

- **Regulator:** the Capital Markets Authority.
- **Capital:** paid-up capital of KSh 10,000,000, plus liquid capital of KSh 2,000,000 or 8% of total liabilities, whichever is higher.
- **Fees:** application KSh 100,000; licence KSh 100,000; annual renewal KSh 100,000.
- **Conduct:** client orders before your own, timely allocation, and confirmations by the end of the next trading day.
- **Licence term:** every licence expires on 31 December of the year it is issued. Renewals go in at least two months before expiry.
- **Decision:** the CMA must decide within 30 days — but the clock only starts once your file is complete and its due diligence is done.
- **Without a licence:** carrying on the business is an offence. A company faces a fine of up to KSh 25 million. The one-year transitional window for existing operators closed on 4 November 2026.

1. Does this licence apply to you?

Start here, because everything else — your regulator, your capital, your fees — follows from the answer.

The First Schedule to the Virtual Asset Service Providers Act, No. 20 of 2025 lists a **Virtual Asset Broker** by its function, *brokerage services*, and describes the activity this way:

> *Facilitate the exchange between one or more forms of virtual assets through a virtual asset exchange and virtual asset wallet providers for and on behalf of clients, which may include retail, institutional investors, or funds.*
>
> — FIRST SCHEDULE, VASP ACT, 2025

The defining feature is agency: you act *for and on behalf of clients*, through exchanges and wallet providers, rather than running the market yourself.

The edges of the category matter just as much:

- **If you hold or control your clients' private keys**, you are also a Virtual Asset Wallet Provider, licensed by the Central Bank of Kenya with paid-up capital of KSh 150,000,000.
- **If you operate the platform on which the exchange takes place**, you are an exchange, not a broker.
- **If you manage client portfolios on a discretionary basis**, you are a virtual asset manager; **if you only advise**, you are an investment adviser.
- **If you carry on more than one activity**, capital stacks. Regulation 85(6) of the Virtual Asset Service Providers Regulations, 2026 requires the paid-up capital of the highest category in full, plus 50% of the paid-up capital of each additional activity.
- **If you already operate in a regulated sector**, section 11(k) of the Act requires a no-objection from your existing regulator.

Section 8(2) of the Act is blunt: a person shall not carry on, purport to carry on, or hold itself out as carrying on the business of virtual asset services in or from Kenya without a licence. Section 47 gave existing operators one year from commencement to comply. That year ended on 4 November 2026.

2. Who can apply

Only a **company limited by shares** registered under the Companies Act (Cap. 486), including a foreign company registered under it (section 8(1)). Before you file, make sure the company also has:

- a **physical office in Kenya** from which the business is carried on (section 19);
- a **bank account in Kenya** for the purposes of the Act (section 24(h)), with an original letter from the bank confirming it;
- a **board of at least three directors**, at least three of them natural persons, none of whom sits on the boards of more than two licensees (section 20(1)); and
- if the company does anything else, the virtual asset business **ring-fenced in a separate business unit**, with its own management structure and its own books of account (regulation 41(2)(d)).

3. What the CMA assesses

Sections 10(6) and 11 of the Act set out what the Capital Markets Authority must weigh. It must be satisfied that you have people with the necessary skills, knowledge and experience; that you can meet your capital, solvency and insurance obligations; that your directors, senior officers and beneficial owners are fit and proper; that your cyber security meets the Computer Misuse and Cybercrimes Act (Cap. 79C); that you can comply with consumer protection and data protection requirements; and that your procedures against money laundering, terrorism financing and proliferation financing are adequate.

It also looks at the size, scope and complexity of your service and the technology behind it, the risks it poses to clients and to Kenya's financial system, your net worth, source of funds and financial stability, and whether the service is likely to promote innovation, competition and benefits to consumers (section 11).

4. Capital and fees

4.1 How much

Requirement	Virtual Asset Broker
Paid-up capital	KSh 10,000,000
Liquid capital	KSh 2,000,000 or 8% of total liabilities, whichever is higher
Application fee	KSh 100,000
Licence fee	KSh 100,000
Annual renewal fee	KSh 100,000

Source: Fifth Schedule and First Schedule to the Regulations.

4.2 What counts as capital

Paid-up capital means *issued and fully paid-up ordinary shares paid by shareholders* (regulation 2). It must be received in cash, or in other consideration the regulator approves that can be objectively valued and immediately realised (regulation 85(4)). Shareholder loans or advances, partly paid shares, contingent commitments and capital raised through borrowed funds — directly or indirectly — do not count (regulation 85(5)).

Regulation 85 then runs **four tests at once**, and keeps running them after you are licensed: paid-up capital, core capital (paid-up capital plus disclosed reserves), shareholders' funds, and liquid capital. Core capital must be unencumbered — not pledged, not restricted, not redeemable at a shareholder's option (regulation 85(8)). If it falls, or is *likely* to fall, below the minimum, you must notify the regulator immediately and submit a capital restoration plan (regulation 85(13)). The regulator may also require more than the tabulated figure, depending on your risk profile (regulation 85(7)).

One practical consequence: capitalise at exactly the minimum and your first trading loss puts you below the line. Fund your early losses with capital above the floor. And do not dress the position up — an arrangement that temporarily inflates your capital is an offence under regulation 86.

4.3 How to prove it

Expect to evidence your financial position, and its source, in some detail:

- an **original, certified bank statement** from a licensed bank or deposit-taking microfinance institution, showing the funds isolated (or held in Government of Kenya Treasury bills and bonds) and **not under lien**, in the **company's own name**;
- a written **authority from your promoters and shareholders** allowing the regulator to verify that statement directly with the bank;
- documentary evidence of the **source of the funds contributed by each significant shareholder**, and a **sworn affidavit** from the significant shareholders that the funds are not the proceeds of crime;
- **insurance** cover under regulation 88, commensurate with the level of risk and the scale of your service, held with an insurer licensed in Kenya or an approved foreign insurer, and including cover against cybersecurity risks, theft, loss of keys and operational failure (regulation 88(3) and (5));
- **audited financial statements for the last three years** or, for a new company, **opening financial statements with projections, verified by an auditor** (regulation 6(2)(i)); and, if you are a subsidiary of a foreign parent, the parent's audited consolidated accounts for three years (regulation 6(2)(j)).

5. The people

5.1 The board

Beyond section 20's three natural persons, regulation 42 requires that **one-third of the board be independent**, that no more than one-third be related to any other director, and that **neither the chairperson nor any director be appointed chief executive officer**.

Independence is tested against six disqualifying relationships, most of them over the past five years — executive employment with the company, association with its advisers, consultants or senior management, links to a significant consumer or supplier, a service contract, close family ties to an adviser or senior manager — and each of them reaches the company's affiliates too (regulation 42(4)). Check your candidates against your own list of advisers before you put a name forward.

5.2 The officers

Role	What is required	Source
Chief executive officer	Fit and proper; professionally competent in virtual assets or a relevant field; domiciled in Kenya. The appointment needs the CMA's prior approval.	s. 30 Act; r. 44
Compliance officer	Board-appointed; not involved in any function that is the subject of compliance; direct access to the board.	r. 39
Money laundering reporting officer	Appointed under the anti-money laundering regulations, with defined terms of reference.	POCAML Regulations
Chief information security officer	Or an equivalent, with oversight of cybersecurity systems.	r. 96(3)(a)
Heads of finance and internal audit	Members in good standing of ICPAK or an equivalent body it recognises.	r. 45

5.3 Fit and proper

Every significant shareholder, beneficial owner, director, the CEO and senior management completes the **Fit and Proper Assessment Form** in the Fourth Schedule to the Regulations, assessed against section 18 of the Act. Gather the supporting papers early — they take longer than the form:

- CV, with certified copies of academic and professional certificates;
- certified ID or passport, KRA PIN and a current tax compliance certificate;
- a current credit reference bureau report and a certified **police clearance certificate**;
- original certified **bank statements for at least six months**;
- contacts for **three independent referees**, one of them the immediate previous employer; and
- CR12 and BOF1 for any corporate shareholder, and work permits for foreign senior managers.

6. What is specific to brokers

6.1 Executing for clients

As a licensee executing transactions you must:

- confirm every exchange, purchase or sale to the consumer by the end of the trading day after the contract (regulation 34);
- give **client orders priority** over your own proprietary orders, and never place proprietary trades so as to disadvantage or delay a client (regulation 35);
- allocate executed transactions to the clients who gave the orders in a timely manner (regulation 36); and
- report to the CMA all trades you facilitate otherwise than on a licensed exchange or token issuance platform (regulation 37).

6.2 Conflicts and information

Section 23 of the Act requires policies to avoid, mitigate and deal with conflicts between you and your clients, your service providers, and your clients among themselves. Regulation 30 goes further: identify and document likely conflicts, decline to act where a conflict cannot be managed, never use a client's information for your own or another client's benefit, erect information barriers, train staff, and refuse inducements that conflict with your duties to clients.

6.3 Recommendations and risk

You may not recommend or effect a transaction unless you have taken all reasonable steps to help the consumer understand its risks, and you may not mislead a consumer or **promise a return** (regulation 109). Where you recommend, the consumer must understand the nature of the investment, its fees, its risks — including AML/CFT/CPF risks — the factors likely to affect its performance, and its terms. Keep a written record of each explanation. If you offer a virtual asset for sale, you must also carry out due diligence on the asset and its issuer (section 24(r)).

6.4 The conduct offences

Front-running (regulation 120) and **churning** (regulation 121) are the offences closest to a broker's business, alongside cold calling (regulation 122). Each is a criminal offence carrying up to KSh 8 million for a company (regulation 143).

7. The business plan

The Third Schedule prescribes twelve headings, in order: executive summary; corporate governance structure; operational plan; the services you will offer; technology and security infrastructure; risk management framework; compliance and internal controls; financial projections over three to five years; market analysis; fees and charges; consumer asset safeguarding; and an implementation plan showing consumer numbers, value and volume for each of your first three years.

For brokers, these deserve particular care:

- **Execution.** The exchanges and wallet providers you will route through, and how you achieve priority and timely allocation for clients.
- **Client money and assets.** Where client funds and assets sit at every step, and confirmation that you do not hold keys — or the wallet provider licence if you do.
- **Fees and charges.** Commissions and any other charges, disclosed before the client transacts.

8. Policies, systems and controls

Regulation 6(2)(f) names nine policies you must file: risk management; AML/CFT/CPF; data protection and privacy; cybersecurity and IT; complaints management; market conduct; consumer protection; conflict of interest; and a business continuity and disaster recovery plan.

In practice, expect the regulator to look for a fuller programme behind them. Budget for:

- customer due diligence and onboarding procedures, including beneficial owners;
- a liquidity management framework, with stress testing and a contingency funding plan;
- a cybersecurity and ICT suite — strategy, information security, encryption and retention, access control, change management, patching, anti-malware and software development lifecycle — backed by an **independent information systems audit and penetration test** (regulation 6(2)(l));

- business continuity and incident response plans approved by the board and tested annually (regulation 21), including a **recovery and wind-down plan** and a business impact analysis with recovery time and recovery point objectives;
- a risk appetite statement, risk register and stress-testing reports;
- an AML/CFT/CPF programme covering targeted financial sanctions, suspicious activity reporting, freezing procedures and an enterprise-wide risk assessment;
- fraud prevention measures, a corporate governance policy, a code of conduct, an internal control framework and an internal audit charter;
- a cross-border service policy, reconciliation procedures, and an outsourcing policy with a register of every arrangement; and
- your standard client agreements, disclosures and terms of service.

Add an **order execution and allocation policy**, a **personal account dealing policy** for staff, and record-keeping for the risk explanations regulation 109 requires.

9. The application

The application is made to the CMA in the form set out in the Second Schedule to the Regulations, with the material listed in regulation 6(2) and the application fee in the First Schedule (regulation 6(1)). The same core file applies to every category: company documents, financial evidence, fit and proper material, the business plan and the policies described above.

In practice, expect the CMA to want to understand your business model before it reviews the full file — your activities and value proposition, target clients, a three-year plan, an organogram, the end-to-end client journey and the flow of funds and assets, a risk assessment and any cross-border operations — and expect to be invited to an interview (regulation 6(3)). Confirm the CMA's current filing procedure and payment instructions before you lodge.

The decision

The CMA must decide within **30 days of receiving everything and completing its due diligence** (regulation 6(4)). If you fail to answer requests for clarification or to attend an interview, it may reject the application (regulation 10). A grant is published in the Kenya Gazette within 30 days (section 10(7)), and you must start business within **twelve months** (regulation 8).

While your application is pending, tell the regulator about any change to the information you filed. Section 10(8) of the Act allows fourteen days; regulation 9 says two. Work to two.

10. Once you are licensed

The licence is the start of the obligations, not the end of them. The recurring ones:

Obligation	Timing	Source
Report transfer and payment volumes, values and geographic spread; fraud and theft; outages and breaches; complaints	Monthly, by the 10th	r. 26
Capital adequacy or liquidity report	Monthly	r. 92(b)
Financial statements	Quarterly, by the 10th of the following month	r. 92(a)

Obligation	Timing	Source
Audited annual accounts (year ends 31 December)	Within 3 months of year end	s. 29; r. 92(c), 95
Report trades facilitated off a licensed exchange or platform	Ongoing	r. 37
Keep transaction records, including wallet addresses and chain identifiers	At least 7 years	s. 44; r. 22
Vulnerability assessment and penetration test	Twice in year one, then yearly	r. 97(4)(a)
Cybersecurity incident, loss of keys or unauthorised transaction	Within 24 hours; detailed report within 5 working days	r. 99
Notify insolvency risk, breaches, suits, cyber incidents and other listed events	On becoming aware; report within 7 working days	s. 25
Material changes — business plan, outsourcing, premises, directors, trade or domain name, target market	Prior notice and written no-objection	s. 26
Issue or voluntary transfer of shares	Prior approval; r. 29 adds a prior-notice route for stakes of 10% or less	s. 27; r. 29
Renew the licence	By 31 October each year	s. 13; r. 11

At every point of service you must display your name, your services, terms and charges, and a contact for your consumer care system (regulation 31), and give each consumer the disclosures in regulation 24 before any transaction. Customer due diligence must be completed before onboarding (regulation 32). Mixer, tumbler and anonymity-enhancing services are prohibited outright (section 21). On tax, fees charged on virtual asset transactions attract excise duty at 10% under the Finance Act, 2025.

11. What is at stake

Breach	Maximum penalty
Operating without a licence (ss. 8(2), 8(3))	Company: KSh 25 million. Individual: KSh 10 million or 5 years, or both (s. 40(3))
Supplying false or misleading information in an application (s. 10(9))	Company: KSh 20 million. Individual: KSh 7 million or 3 years, or both (s. 40(2))
Breaches of ss. 12(5), 14(2) and 20(4), including the duty to conduct business prudently	Company: KSh 10 million. Individual: KSh 3 million (s. 39(2)(f))
Administrative breaches of the Regulations	Company: KSh 5 million. Individual: KSh 3 million; plus suspension or revocation (r. 142)
Offences under the Regulations, including misrepresenting capital and the market conduct offences	Company: KSh 8 million. Individual: KSh 5 million or 5 years, or both (r. 143)

Directors and senior officers who knowingly authorise, permit or aid a contravention are personally liable for the same penalty as the company (section 41).

12. Ten questions before you file

1. Do you act only through licensed exchanges and wallet providers?
2. Have you confirmed you never hold or control a client's private keys?
3. Does your execution process put client orders ahead of your own every time?
4. Can you confirm every trade to the client by the end of the next trading day?

5. Can you document the risk explanation given before every recommendation?
6. Have you removed any marketing that could read as a promise of a return?
7. Are your conflict-of-interest procedures and information barriers written and trained?
8. Is KSh 10 million paid up in cash, in the company's name, isolated and free of any lien?
9. Is your board one-third independent, and your CEO domiciled in Kenya and not a director?
10. Has an independent firm audited your systems and run a penetration test?

If the answer to any of these is no, that is where your preparation starts.

> *This article is published by T.M.M & Partners Advocates for general information. It summarises the Virtual Asset Service Providers Act, No. 20 of 2025, the Virtual Asset Service Providers Regulations, 2026 (Legal Notice No. 134 of 2026) and regulatory licensing practice as at November 2026, and does not take account of later changes. It is not legal advice and no advocate–client relationship arises from reading it. Readers should take advice on their own circumstances.*
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T.M.M & PARTNERS
ADVOCATES

TALK TO OUR TEAM

For advice on licensing under the Virtual Asset Service Providers Act, 2025 and the Regulations, 2026, please contact:

ROBERT S. MUOKA
SENIOR PARTNER
robert@tmmadvocates.ke

BRIAN MAERA
SENIOR PARTNER
brian@tmmadvocates.ke

info@tmmadvocates.ke · www.tmmadvocates.ke

Theophilas M. Matundura *LLB. Hons UoN. Dip. KSL* | Robert S. Muoka *LLB. Hons UoN. Dip. KSL* | Brian M. Maera *LLB. Hons UoN. Dip. KSL*
Benedict O. Odhiambo *LLB. Hons UoN. Dip. KSL* | William Mathenge *LLB. Hons UoN. Dip. KSL* | Marvin Obara *LLB. Hons UoN. Dip. KSL*

REGULATED BY THE LAW SOCIETY OF KENYA



T.M.M & PARTNERS ADVOCATES

LEGAL EXPERTISE, PERSONALIZED SERVICE

+254 703 480 154 // +254 728 178 883

KMA CENTRE, BLOCK A 3RD FLOOR, UPPERHILL NAIROBI, KENYA

INFO@TMMADVOCATES.KE

WWW.TMMADVOCATES.KE

LEGAL EXPERTISE, PERSONALIZED SERVICE