

TERMS OF REFERENCE

REGULATORY REVIEW: THE ROLE OF SACCOS AS REMITTANCE PROVIDERS

1. BACKGROUND

FSD Kenya 2022- 2026 strategy

The Financial Sector Deepening Kenya (FSD Kenya) is an independent Trust dedicated to the achievement of a financial system that delivers value for a green and inclusive digital economy, while improving financial health and capability for women and micro and small enterprises (MSEs). FSD works closely with Government, the financial services industry and other partners to develop financial solutions that better address the real-world challenges faced by low-income households, enterprises and underserved groups such as women and youth. FSD's current strategy (2022 – 2026) sets to contribute to the development of a financial market offering useful, affordable, and trusted financial solutions for Kenyans and Kenyan enterprises, especially for women and micro and small enterprises. The strategy focuses on shifting 3 key functions of the financial market towards more inclusive finance. These functions are effective policy, regulation and vision, open financial market infrastructure and value adding financial solutions. Remittances is recognised as a key enabler to achieving Kenya's long-term development goals as they enable socio-economic growth and transformation of livelihoods through their wide reach, especially to low-income households and rural populations. These flows enable livelihoods to manage day-to-day and increase their resilience through covering medical, educational and housing expenses as well as covering various emergencies such as crop failure and emergency medical treatment. They are also used to start and sustain small businesses.

IFAD and the PRIME - Africa programme

The International Fund for Agricultural Development (IFAD) has an on-going programme, PRIME Africa - the Platform for Remittances, Investments and Migrants' Entrepreneurship, which focuses on seven African countries (including Kenya). The main objectives of PRIME Africa are to support the cost reduction of diaspora remittances, increase digitisation of the international remittances, foster the adoption of remittances formal channels, and increase the financial inclusion use cases through remittances. The project produced a diagnostic on the Kenyan remittance market in 2021, as well as an accompanying roadmap to guide activities to help make improvements to the market. The implementation activities following this include interventions that support both the private and public sector players.

Remittances in the Kenyan context

Remittances are important for Kenya and is an area that has receiving increased attention in recent years. In many ways, Kenya has been seen as the 'poster child of digital diaspora remittances, due, in many ways, to the widespread adoption of mobile money domestically since 2007. Kenya is a net receiver of remittances. According to data from the Central Bank of Kenya (CBK), remittances inflows to Kenya totalled USD 3.7 billion in 2021, accounting for over 3 percent of GDP.¹ Despite the significant contribution of remittances to Kenya's economy, there still exists constraints in the remittance market that are altogether holding back more efficient outcomes for the broader economy and for downstream recipients. Of these, cost continues to be a major barrier with CBK data showing that the average cost of sending remittances was in the range of 4%-6% of the amount sent depending on the remittance corridor. ¹ This is higher than the SDG target of reducing the cost to less than 3% and eliminating remittance corridors with costs higher than 5% by 2030.

¹ [CBK Diaspora Remittances Survey, December 2021.](#)

TERMS OF REFERENCE

Beyond costs, other challenges include lack of publicly available data that provide granular and gendered detail relating to size and value of remittance flows, channels used, both formal and informal, senders and recipients demographics and gender, usage of remittance receipts and other data points that would provide a wholesome picture of the remittance market in Kenya. While CBK publishes monthly data on diaspora remittances, it is aggregated, categorises the inflows as per three corridors: North America; Europe; and the rest of the world and only includes remittances sent through formal channels. However, anecdotal evidence suggests that there are large inflows of remittances through informal channels both into and from Kenya which by-pass the formal channels. Additionally, little is known about Kenya as a remittance-sending market.

The role of SACCOs in remittances

Both IFAD, SASRA and FSD recognise the potential role of SACCOs as significant players in the remittances market. There are currently over 500 SACCO pay points countrywide with some of the large SACCOs rivalling commercial banks in terms of asset size and capital base. Whilst SACCOs currently offer remittance services, it is through agency relationships with commercial banks and other PSPs, mainly FinTechs that leverage mobile money services. This is by design as SACCOs currently cannot participate directly in the national payments system and cannot handle forex transactions. The current arrangements have several limitations: (i) they create several intermediary layers which add costs to the transactions thus making it more expensive to the end consumers; (ii) the integrations through partners create multiple points which cause vulnerabilities in terms of system failures and cyber-attacks, and (iii) banks need to get approvals from CBK before partnering with SACCOs which in turn have to get an approval from their regulator, SASRA, before partnering, a burdensome process. These challenges limit the effectiveness of SACCOs as remittance providers. Addressing these challenges has the potential to:

- a. Increase inclusive finance through efficient and effective transfers, including reduced costs.
- b. Reduce the use of informal channels.
- c. Increase networks into rural areas by linking remittances with the financial services used by rural, low-income people such as women.

To get a better understanding of the current and potential role of SACCO as remittance providers, it is imperative to first undertake a review and analysis of the market, policy and regulatory landscape to identify the constraints and opportunities in the remittances market and the SACCO sector and the potential intersections between the two. This would then generate market insights and policy recommendations to enhance the role of SACCOs as remittance providers. FSD Kenya through funding from IFAD and the support of SASRA seeks to recruit the services of two consultants to undertake the market research and analysis (market analyst) and the policy and regulatory review (regulatory consultant). This Terms of Reference is for the policy and regulatory review. The ideal candidate (the regulatory analyst) must have in depth understanding of Kenya's financial sector policy and regulatory environment, especially the SACCO sub-sector, and an understanding of the payments ecosystem in Kenya.

2. OBJECTIVE

To undertake a detailed and comprehensive policy, legal and regulatory review of the remittances landscape in Kenya including an analysis of the legal and regulatory framework that impact on the role of SACCOs as remittance providers.

TERMS OF REFERENCE

3. SCOPE OF WORK

The specific tasks to be undertaken are:

- 3.1 **Review the legal and regulatory framework for the remittances market:** The emphasis will be on understanding the current key features of the policy, legal and regulatory framework and the extent to which this supports and inhibits the remittances market and the shift towards harnessing the opportunities created by SACCOs as remittance providers. This will include a rapid review of the current laws, regulations, guidelines and other regulatory instruments that apply to remittance activities, the institutions authorized to manage payment instruments and foreign currency, their licensing conditions, among others. This should also include an analysis of the current framework that enables SACCOs to offer remittance services through agency relationships with banks. While focusing on the national level, the regional and international dimensions should also be considered.
- 3.2 **Identify gaps in the legal and regulatory framework:** Flag any gaps in the legal and regulatory framework and identify the legal changes that would be required to facilitate the direct participation of SACCOs as remittance providers. This should also include the analysis of legal and regulatory provisions required to incentivise the use of formal remittance channels.
- 3.3 **Strategy and policy recommendations:** Based on the legal and regulatory review and the gap analysis and working alongside the market analyst, develop policy options and recommendations required to facilitate and enhance the role of SACCOs as remittance providers, beyond the agency relationships with banks. The achievement of this objective will not be accomplished overnight but is set to require a long-term, carefully sequenced change process in which policymakers and regulators are set to play a critical role alongside other financial sector stakeholders. It is essential to identify a credible strategy which realistically engages with the current interests, longer-term motivations and capacities of all stakeholders. Public policy recommendations need to be developed around this strategy.
- 3.4 **Synthesis:** The consultant shall synthesize and compile all the findings from the regulatory review and support the development of the consolidated report that draws findings from the market research and analysis and stakeholders' consultations.
- 3.5 **Dissemination of findings:** The consultant will participate in various stakeholder dissemination events. The objective is to crowdsource insights from various stakeholders that will feed into the regulatory review and to disseminate the findings once the review has been finalised. This will be imperative to ensure that the findings and recommendations are aligned and cohere with other development partners, private and public actors' initiatives, strategies and work and priorities. At this stage, it is anticipated that the following consultations will be held:
 - Three validation workshops with specified thematic groups.
 - Validated final report for publication and distribution.
 - Industry-level in-person dissemination event as shall be discussed.

TERMS OF REFERENCE

- Knowledge dissemination and linkage with the National Remittances Stakeholder's Network's (NRSN's) community of practice (CoP)

4. CONDUCT OF THE WORK

The consultant will be contracted by FSD Kenya who will handle all contractual matters including payments will be handled by FSD Kenya. The regulatory consultant will work alongside two other consultants: a market research analyst and a technical lead, both of whom will be contracted separately by FSD Kenya to support other aspects of this work. S/he will report directly to the technical lead while working closely with the project team comprised of FSD Kenya and SASRA staff. Within FSD Kenya, the principal counterparts will be the Research specialist. The role does not require full-time physical presence in the FSD office, but from time to time, in-person meetings will be required. Overall, this work will require a flexible and agile working arrangement to adapt to an operating environment or policy priorities that might change, sometimes on short notice.

5. OUTCOMES AND DELIVERABLES

The key outcome sought from this work is insightful and high-quality outputs that will inform policy and industry to come up with inclusive remittances solutions. The table below specifies the expected deliverables.

Activity	Deliverable
1. Inception meeting to clearly outline the expectations including defining the methodologies to be adopted, sample sizes and timelines.	<ul style="list-style-type: none"> • Detailed Implementation plan
2. Review the legal and regulatory framework for remittances offered through SACCOs (task 3.1)	<ul style="list-style-type: none"> • An overview report of the legal and regulatory framework for remittances offered through SACCOs
3. Identify regulatory gaps and challenges faced by existing and alternative models. (task 3.2)	<ul style="list-style-type: none"> • Overview of the regulatory gaps and challenges faced by existing and alternative models
4. Provide recommendations to develop compliant partnerships and enabling regulations (task 3.3)	<ul style="list-style-type: none"> • Overview of the regulatory breaches and challenges faced by existing and alternative models.
5. Develop an analysis and regulatory assessment report (task 3.4)	<ul style="list-style-type: none"> • Regulatory assessment report
6. Dissemination of the outputs above to various stakeholders (task 3.5)	<ul style="list-style-type: none"> • Consolidated report with all the above outputs • ≥ 3 workshops with targeted audiences to validate research findings • ≥ 3 webinars, conferences/stakeholder gathering/knowledge exchange. • \geq Summary thematic reports for the

TERMS OF REFERENCE

Activity	Deliverable
	websites and distribution at stakeholder events
7. Co-ordinating with the project manager to share progress of the work (task 3.6)	<ul style="list-style-type: none"> Input to the progress report to be shared with FSD and IFAD

6. REQUIREMENTS

Mandatory requirements
1. A law degree or relevant qualification in social science (minimum bachelor's degree, masters preferred)
2. Ability to interrogate and triangulate different information sources to derive meaningful insights
3. Ability to present findings in a compelling way and to communicate this to general as well as specialist audiences
4. A deep understanding of the remittances and payments regulatory system in Kenya as well as understanding the associated value chains (policy and industry stakeholders, channels, solutions etc). Understanding of the internal regulatory systems of the same will be an added advantage
5. Ability to work independently and deliver against deadlines.
6. Excellent spoken and written English

7. EVALUATION CRITERIA

Evaluation criteria (provide response in TECH FORM)		
Criteria, sub-criteria, and point system for the evaluation of Technical Proposals		Weighting (%)
1	Experience and qualification of the Consultant (evaluated via forms TECH-2)	
1.1	Track record and reputation for high quality analytical outputs	15
1.2	Experience in application of regulatory frameworks for development, policy and industry initiatives	15
1.3	Understanding of the regulatory payments and remittance ecosystem of Kenya	10
	Understanding of the international regulatory payments and remittance ecosystem	5
	Understanding of the payments and remittance value chains (policy and industry stakeholders, channels, solutions etc).	5
	Total Points for this criterion	40
2	Approach and methodology (evaluated via forms TECH-4)	
2.1	Quality and relevance of the proposed approach and methodology	15
	Total Points for this criterion	15

TERMS OF REFERENCE

Evaluation criteria (provide response in TECH FORM)		
Criteria, sub-criteria, and point system for the evaluation of Technical Proposals		Weighting (%)
3	Staff schedule, work and deliverable schedule (evaluated via form Tech 6,7 & 8)	
3.1	Distribution of effort across the consultancy period	5
3.2	Availability and responsiveness to deliver the work	5
	Total Points for this criterion	10
4	Key Professional Personnel Qualification for the Assignment Note: Bidders to include CVS using TECH FORM-9 and supporting certifications of ALL KEY PERSONNEL. Bidders to respond in relation to the Key personnel requirement and evaluation criteria in this section	
4.1	Relevant academic qualifications	5
4.2	Expertise and skills of the consultant in regulation and policy analytics	15
4.3	Expertise and skills of the consultant to communicate and disseminate research findings	15
	Total Points for this criterion	35
	Total Points for the four (4) technical criteria (St)	100
	The minimum technical score St required to pass for financial proposal to be scored is	75
	<p>Financial Evaluation</p> <p>The formula for determining the financial scores is the following:</p> <p>$FS = 100 \times FL / FP$, in which FS is the financial score, Fm is the lowest price and FP the price of the Proposal under consideration.</p> <p>The weights given to the Technical (T) and Financial (F) Proposals are:</p> <p>T = 80% and F = 20%</p>	

8. TIMETABLE

The outputs are expected over a period of 18 months beginning July 2023 and completed in Dec 2024. A summary schedule is included below:

TERMS OF REFERENCE

Activity	2023								2024											
	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Component 1: Diagnostic study																				
Sub-component Regulatory Diagnostic																				
1.3																				
1.3.1																				
1.3.2																				
1.3.3																				
1.3.4																				
Component 2 – Validation and dissemination of research findings																				
2.1																				
2.2																				
2.3																				
2.4																				
2.5																				

9. SUBMISSION

Interested bidders should send proposals by email to tenders@fsdkenya.org on or before **June 30th, 2023, at 17:00HRS (EAT)** with the subject line **“REMITTANCE PROJECT REGULATORY CONSULTANT”**

If you have any clarification questions, please email us at tenders@fsdkenya.org no later than 26th June 2023. Responses to clarification questions shall be sent on 28th June 2023.

FSD Kenya will undertake a due diligence assessment and screening of the preferred Bidder to include reference checks. FSD Kenya will share a Third-party screening questionnaire to aid in processing the assessment and screening. FSD Kenya reserves the right to proceed or reject Bidder(s) depending on the outcome of this assessment and consider the next ranked bidder. The findings of this assessment will be kept confidential and used internally for the purposes of this evaluation.

FSD Kenya reserves the right to accept any tender (s) or to reject all tenders at any time. FSD Kenya also reserves the right to cancel this procurement at any point in time prior to award of the contract.

If you would like to lodge a complaint regarding this procurement process, please write to tenders@fsdkenya.org with the subject line **“regulatory consultant”**. FSD Kenya procurement team will acknowledge receipt of the complaint in writing within three (3) working days.

During the course of this procurement if you come across any issues of bribery, corruption or wrong doing on FSD Kenya part, please feel free to contact Julius Anyega, FSD Kenya Chief Operations Officer at Julius.Anyega@fsdkenya.org or transparency@fsdkenya.org

Tender security is NOT required. Issuance of this request for proposals in no way obligates FSD Kenya to award a contract. Applicants will not be reimbursed for any costs associated with their application.