



## CENTRAL BANK OF SOMALIA

### REVIEW OF THE CENTRAL BANK OF SOMALIA ACT, 2012

#### TERMS OF REFERENCE (TOR)

#### FOR A LEGAL FIRM TO REVIEW AND DEVELOP PROPOSED AMENDMENTS TO THE CENTRAL BANK OF SOMALIA ACT, 2012

### 1. BACKGROUND

Somalia is undertaking major reforms in various sectors with a vision to spur the country's economic development. Major strides have been made in this regard, including establishing relevant institutions such as the Central Bank of Somalia (CBS), and other key Government agencies and units with the mandate to spearhead national reforms and enact appropriate laws to support the targeted reforms. Despite these milestones, a lot still needs to be done.

Somalia's financial sector has been targeted for these reforms, given the pivotal role that the sector plays in developing the economy.

The CBS is established under the Central Bank of Somalia Act, No 130 Of 2012. This law was enacted in 2012. This statute bestows on the CBS heavy responsibilities or functions, which include to:

- a) Formulate, implement and be responsible for monetary policy and implement the foreign exchange policy.
- b) Hold and manage the foreign exchange reserves of Somalia.
- c) License, regulate, and supervise all banks and financial institutions to foster the liquidity, solvency, and proper functioning of a stable financial system.
- d) Formulate and implement such policies to best promote the establishment, regulation, and supervision of efficient and effective payment, clearing, and settlement systems.
- e) Administer payment, clearing, and settlement systems.
- f) Act as banker and adviser to, and as fiscal agent for the Government and public entities.
- g) Act as the sole issuer of legal tender Somali currency notes and coins; and
- h) Compile, analyze, and publish the monetary, financial balance of payments and other statistics covering various sectors of the national economy.

### 2. OBJECTIVES OF THIS ASSIGNMENT

The CBS Act was enacted in 2012 principally to provide a much-needed legal framework to the Central Bank of Somalia, and initiate the process of reforming the financial sector. Over the past decade, the Central Bank of Somalia's functions evolved. Equally, the structure of central banks has evolved, with more emphasis being placed on governance as a cornerstone to a well-functioning central bank. Organizational structure, appointments of key senior personnel and their duties, oversight roles, independence/autonomy, financial strength, accountability, transparency, and capital, amongst others, are fundamental to a central bank.

The review of the CBS Act and enactment of the proposed amendments to the CBS Act are expected to lead to:

- Enhance the governance framework of the CBS in a way that instills the confidence of stakeholders, including its licensees, peer Central Banks in the region and beyond, the Government, financial service providers, development partners, and members of the public.
- Protect the operational independence and autonomy of the Bank and to ring-fence it from any political interference.
- Improve the financial capacity of CBS by entrenching a capitalization framework for the Bank that will ensure that CBS is well capitalized.
- A more accountable CBS to its immediate stakeholders the public at large.
- A more transparent CBS whose activities and operations are clearly understood by its stakeholders and members of the public.
- Enhanced service delivery by the CBS.
- Enhanced oversight and supervisory powers of the CBS.
- Enhanced capacity to discharge all the statutory functions bestowed in the Bank.

### **3. SCOPE OF ACTIVITIES**

The CBS is seeking the services of a Legal Firm to review the CBS Act and propose amendments to address the deficiency and gaps identified in the law and to incorporate which are presently not in this law.

The Legal firm will provide legal diagnostics, analysis and draft the proposed amendments to the CBS Act. The Legal Firm will be procured directly by the CBS.

The Legal Firm is expected to carry out the following activities:

- i) Undertake a comprehensive legal review of the CBS Act to identify deficiencies, restrictions, omissions, and any onerous provisions which need to be deleted or amended. The review includes but is not limited to corporate governance, independence of the board of directors, the scope of the functions of the CBS, capitalization of the bank (authorized capital of CBS), power of the Government over the CBS (directives by the Government to the CBS), authority and functions of the board audit committee, disclosure of information, reporting, amongst others.
- ii) Identify deficiencies in the CBS act based on requirements of CBS or other stakeholders that will strengthen the amended CBS Act.
- iii) Prepare an Issues Paper highlighting key issues identified in the CBS Act which ought to be addressed.
- iv) Develop proposed amendments to the CBS Act to address the deficiencies and gaps identified.
- v) Prepare recommendations, explanatory Notes explaining the rationale for the proposed amendments.
- vi) Prepare a final report covering the activities undertaken in this assignment.

### **4. APPROACH TO THE ASSIGNMENT**

The Central Bank of Somalia has initiated this assignment and will be wholly responsible for its execution. The CBS will provide the Legal Firm with any information it may need, and reports of the assignment will be submitted directly to the CBS.

To enable an easy flow of information and communication between the CBS and the Legal firm, the Legal firm or its representative will be at liberty to contact the CBS through phone, e-mail, and virtual meetings to seek any information and to share any useful information with the CBS. Similarly, CBS will be at liberty to use the same channels to liaise with the Legal Firm. The CBS shall nominate a team leader as the contact person who shall liaise with the Legal Firm.

## 5. INDICATIVE TIMING FOR KEY DELIVERABLES AND MILESTONES

Performing the above-mentioned activities, the Legal Firm will be responsible for delivering the following outputs, comprising the key milestones.

Key stages of the Review Process	Indicative timing
1. Review of CBS Act to identify deficiencies 2. Research: <ul style="list-style-type: none"> <li>• Literature review</li> <li>• Incorporate CBS Official Comments.</li> </ul>	By end of .....week from contract date
3. Developing proposed amendments to the CBS Act: <ul style="list-style-type: none"> <li>• Developing explanatory notes to the proposed amendments.</li> <li>• Sharing of proposed amendments and explanatory notes with the CBS.</li> <li>• Receipt of comments from CBS on proposed amendments.</li> </ul>	By end of .....week from contract date
4. Final Report to CBS: <ul style="list-style-type: none"> <li>• Submission of revised proposed amendments</li> <li>• Submission of revised Explanatory Notes</li> <li>• Submission of final report</li> </ul>	By end of .....week from contract date

This schedule of activities may be altered as between the CBS and the Legal Firm as circumstances may render necessary.

If due to unforeseen/unavoidable circumstances/eventualities or due to the scope of work, it is necessary to extend time, the Legal Firm shall be granted more time to complete the exercise as may be requested after mutual agreement with CBS. The Legal Firm is also at liberty to complete the work earlier than schedule if possible.

All deliverables should be agreed with the CBS as needed and be provided in English/Somali and in electronic copy.

## 6. QUALIFICATIONS

The Legal Firm must possess/ the following experience and past deliverables/:

- i) A Minimum of 10 years of work experience in commercial and corporate laws.
- ii) Valid registration license from Federal Government of Somalia
- iii) Tax compliance certificate from the ministry of Finance
- iv) Firm Business profile with physical verifiable address
- v) Copy of Proof of Relevant experience (Maximum 4 contracts)
- vi) Familiarity with Central Banking laws, particularly in any country in the Eastern African region.
- vii) Familiarity with the overall commercial, corporate, and financial market legal framework,
- viii) Familiarity with functions of a Central Bank in a dynamic society.
- ix) Experience in reviewing laws in the financial sector.
- x) Past experience in reviewing any financial sector law or developing new financial sector laws or regulations for Somalia.

- xi) Familiarity or experience in legal drafting and legal analysis in fragile or post conflict countries will be an added advantage.
- xii) Experience in delivering similar work, and able to crowd in international best practice.
- xiii) Good communication, translations, and writing skills.
- xiv) Self-reliant, able to work without supervision, highly motivated, organized, and demonstrating sound professional judgment; and
- xv) Excellent English and Somali language skills with Clear Translations.

## **7. TIMING AND DURATION**

The assignment is envisaged to start on **5<sup>th</sup> day of February 2023**. The assignment will have a duration of **3** calendar weeks and will tentatively end on **25<sup>th</sup> day of February 2023**. This deadline is subject to such changes as circumstances may render necessary.

## **8. APPLICATION PROCESS**

The Central Bank of Somalia (CBS) now invites eligible Legal Firms to apply in providing the above-mentioned services. Interested Legal Firms must provide information indicating that they are qualified to perform the Services. The following conditions are to be aligned with each Legal Firm application such as technical (work plan & experience), financial proposal, track record and official support documents including, CV of relevant associates and at least 2 samples of previous work like the assignment (links can be shared as well).

Applications should be submitted through email written below on or before **January 30<sup>th</sup>, 2023**, at **16:00** hours (Mogadishu Time) – Please indicate the title “**CBS ACT REVIEW**” in the subject line.

Attention: CBS Procurement  
Mogadishu  
Somalia

Email: [procurement@centralbank.gov.so](mailto:procurement@centralbank.gov.so).

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