

# AGRICULTURE, AQUACULTURE & FISHING SECTOR AND FINANCE & BANKING ALERT

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## IN THIS ISSUE

### KENYA

#### Funding agriculture: The warehouse receipt system

The agriculture sector is the backbone of the Kenyan economy, contributing just over one-third of Kenya's gross domestic product and employing more than 40% of the population. The sector supports the rest of the economy by supplying the manufacturing sector with raw materials and generating tax revenue and foreign exchange.



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**KENYA**

## Funding agriculture: The warehouse receipt system

The agriculture sector is the backbone of the Kenyan economy, contributing just over one-third of Kenya's gross domestic product and employing more than 40% of the population. The sector supports the rest of the economy by supplying the manufacturing sector with raw materials and generating tax revenue and foreign exchange.

Despite its importance, the productivity of the agricultural sector has been largely stagnant in recent years, with small-scale farmers and agricultural enterprises unable to grow their enterprises. A key issue in this regard has been the lack of financing to the agricultural sector. According to the 2021 FinAccess Household Survey, about 7,8% of Kenyan farmers use formal borrowing channels to finance their agricultural operations with the bulk of the financing in the sector coming from profits generated from the sale of agricultural produce.

One of the solutions to this problem has been the establishment of a warehouse finance system in Kenya. Warehouse financing is a form of structured trade financing whereby capital is provided by a lender to a borrower whose obligations are secured against commodities owned by the borrower and held in a warehouse which is owned by an independent third party. The independent third party provides the borrower with a warehouse receipt, which acts as a document of title to the commodities held in

the warehouse. A typical warehouse financing structure allows the borrower to repay the capital using the proceeds from the sale of the secured goods in the borrower's normal course of business.

### **THE WAREHOUSE RECEIPT SYSTEM IN KENYA**

The warehouse finance system in Kenya is governed by the Warehouse Receipt Systems Act 8 of 2019 (Act) and the Warehouse Receipt System Regulations, 2021 (Regulations). The Act and the Regulations provide a legal framework for the development and regulation of a warehouse receipt system for agricultural commodities and create various administrative bodies to manage the warehouse receipt system. The administrative bodies recognised by the Act as integral to the warehouse receipt system include:

- **The Warehouse Receipt Systems Council** which oversees the functioning of the warehouse receipt system to ensure efficiency and integrity of the system and certifies warehouses.

- **The Central Registry** which acts as a register of all issued warehouse receipts.
- **County Governments** which should promote the development of licensed warehouses, issue operation licences and maintain the county registry for the management of warehouse receipt transactions.

Warehouse receipts serve as the document of title for goods or collateral stored in a licensed warehouse. Warehouse receipts are issued by a warehouse operator for any agricultural commodity deposited in a warehouse. Warehouse receipts can be issued in hard or electronic format, as set out in the Regulations.

Once the warehouse receipt is issued, it is registered in a Central Registry established by the Act, after which the warehouse receipt will be considered to be a negotiable instrument which can be transferred from one party to another. Borrowers can also use the warehouse receipt as collateral

**KENYA**

## Funding agriculture: The warehouse receipt system

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to access credit from participating financial institutions or traded in commodity markets.

The law allows for the creation of security interest over the collateral held in a licensed warehouse. The Act and Regulations envision that parties will create security through a pledge of the warehouse receipt. Under the Regulations, the pledgee of a warehouse receipt:

- shall ensure that the warehouse receipt issued for the deposited commodity reflects the accurate information including quality and quantity of the commodity (this can be achieved through the official search at the Central Registry);
- shall register their interest with the Central Registry; and
- may appoint a collateral manager to oversee the proper care of commodities pledged.

### **IMPACT OF THE WAREHOUSE RECEIPT SYSTEM IN KENYA**

#### ***Access to credit***

Holders of warehouse receipts can access credit from financial institutions without having to sell their agricultural produce to obtain profits which can then be reinvested. This was previously unattainable due to the reluctance from financial institutions to use moveable property such as agricultural produce as collateral.

#### ***Access to commodity exchange markets***

Holders of warehouse receipts can register with any commodity exchange and trade the warehouse receipts at the commodity exchanges. The commodity exchanges directly link farmers to purchasers, thus eliminating the need for middlemen, which increases a farmer's earnings.

#### **CONCLUSION**

The legal framework for the development and regulation of the warehouse receipt system for

agricultural commodities in Kenya is now in place and a lot of its efficacy depends on the council's robust and proper administration and implementation of the warehouse receipt system to ensure that the various players in the system comply and meet the stipulated requirements.

The system is expected to improve commodity storage, reduce post-harvest losses, curb value chain inefficiencies and increase earnings to farmers, traders and service providers in agricultural commodity trading. The commodities recognised for the use of the warehouse receipt system are maize, beans, green grams, potatoes, sorghum, rice, and wheat. This limitation is seen as a drawback as there are many other crops and farm produce that cannot use the warehouse receipt system to the potential detriment of farmers and the sector generally, although it is expected that more crops will be added to the list from time to time.

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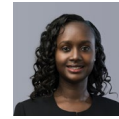
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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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