The upshot of financial Sector regulation on the financial market performance in Kenya Perspectives from Kisii county, Kenya
Dr. Charles Kombo Okioga

Abstract
This paper discusses the effect of financial sector regulation on the financial market performance in Kenya this is line with the Modernization in Sub-Saharan Africa financial market which has historically not been a reaction to financial crises. It is typically a product of piece-meal reform and gradual evolution coupled with the anxiety to replicate developments in other jurisdictions regulatory reforms emblematizes this phenomenon. Recent financial crises have demonstrated the need to keep domestic and global regulatory systems under constant review to ensure that they grow in tandem with market demands and remain dynamic and relevant. However, history is replete with dramatic exemplifications of the actuality that regulatory modernization is crisis driven. Regulatory frameworks in many jurisdictions are increasingly being shaped by crises. This paper discusses the Role of central Bank, Capital markets Authority, Insurance Regulatory Authority and Retirement Benefit Authority in regulation the financial sector and the effect it has on the financial market performance and concludes on the major role of central bank and possible recommendation on the regulatory gap.

Key words: Fiscal policy, Finance, Central bank

BACKGROUND OF THE STUDY
Kenya is rich in a number and type of financial institutions, with the Central Bank at its apex; it has a well-developed financial market performance with over sixty financial intermediaries providing payments services and credit facilities to the public and businesses. (Johnson, S. 2004a) In addition, there is a Capital Market Authority, Stock Exchange and a developed Money and Capital market with all the attendant traditional financial instruments available in an international centre. With the Central Bank regulating, supervising the banking system and managing monetary policy operation, at the apex, the industry is a pyramid of financial activity comprising 48 commercial banks, 13 non-bank financial institutions and 2 mortgage finance companies. There is also a large number of non-bank financial institutions segment comprising 4 Building Societies, 37 insurance companies, 20 micro-finance institutions, 57 hire-purchase companies, and some 2,670 Savings and Credit Co-operatives Societies (Johnson’s. & Arnold 2011).

Bhagwati jagdish (1986 b) indicates that there has been an intense debate in African countries on the direction of promoting stability, economic transformation or both their central banks as regulators should be taking due to the aftermath of the global financial crisis. Advocates of a stabilizing role seem to be dominating the discussion about the future role of central banks after what is deemed to have been the worst financial crisis ever. And yet a view emerging among African policymakers and development practitioners is that central banks should play a role that goes beyond safeguarding monetary and financial stability and seeks to develop a responsible financial sector, particularly through regulation that provides an enabling environment for the outreach of financial services. (Collins, P.J Mordoch et al 2009)

This view is based on two important arguments. The first is that, by playing a transformative role, central banks can reduce risk in the financial sector: while prudential regulation may go some way towards precluding banking distress, the recurrent nature of financial crises around the world suggests that such regulation is not enough to prevent crises (Simpton, P. 2007). From this perspective, prudential regulation should be complemented by measures that seek to encourage a different structure for the financial system.

As regulators, central banks are best placed to create an institutional environment that supports the transformation to a financial system which diversifies risk by providing a broad range of financial

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services for different customers rather than engaging in a narrow range of short-term, possibly speculative activities (Schreiner, M. 2011). The second argument is that, where central banks’ stabilizing and transformative roles complement each other, this may help to ensure that financial systems fulfill their original purpose of mobilizing long-term capital and allocating it to the most productive sectors, firms and individuals in the economy (Jack, W & T. Suri 2010). Although these arguments have convinced many policy-makers that central banks should seek to balance their stabilizing role with a more transformative role, African countries have had difficulty striking such a balance and reforming financial regulation accordingly because the financial services sectors in Africa are exceedingly small, lack sophisticated financial investment products and are not significantly globalized, global financial crises have had insignificant domino effect on the local financial sectors. However, this should not be construed that regulatory modernization is not an economic imperative. The current debate on regulatory modernization appears to lay disproportionate emphasis on the structure, functions and jurisdictional boundaries of regulatory agencies. Proposals for reforms focus on the form the organizations will assume and their envisioned role. (Buchanan, James, M & Milton 1963) The debate has invariably crystallized into an elucidation of the suitability or appropriateness of the single or unified regulator or the “twin peaks” financial services regulatory models. One of the principal reasons why the debate on regulatory modernization is likely to remain dynamic is that it is no longer confined within the context of domestic regulatory systems. It has extended to the global financial market performances where regulation is increasingly becoming elemental.

Uganda’s financial sector is among the least developed in Africa in terms of size, diversity, efficiency and financial intermediation (Johnson, S. 2006a). The Government of Uganda relies heavily on foreign aid to finance government expenditure. Taxes have yet to become the single most important. Traditionally, regulatory structures were classified as institutional and functional. However, this dichotomy is not mutually exclusive and recent scholarship by Mas, I and D Radcliffe (2010) for instance, postulate that jurisdictions with sizable financial services sectors follow one of the three basic regulatory models: the functional/institutional model unified or consolidated financial services regulator model, and the “twin peaks” model. These regulatory models overlap and vary considerably. It is important to emphasize that although the single or unified regulator model has attracted most attention, there is no one-size-fits-all regulatory structure or universal model. Additionally, configurations of either model vary from jurisdiction to jurisdiction; Source of government revenue, the productive sectors are weakly developed, as is evident from the ‘missing middle’, with a small number of large enterprises, a large number of micro-enterprises and the prevalence of subsistence agriculture. According to Kenya National Bureau Of Statistics (2010) the institutional or silo regulatory system is characterized by different legal entities regulating different sectors of financial services namely: banks, insurance, securities and pension are regulated by distinct agencies. Regulation is thus determined by the institution as opposed to the business being transacted. For instance, banks are regulated by a Central Bank for example; the Central Bank of Kenya is responsible for supervision and regulation of the banking system. It defines prudential standards and imposes penalties for non compliance. (FSD and Central bank of Kenya 2009), capital markets Authority is the regulatory authority for securities markets, publicly held companies and market intermediaries.

REGULATOR MODEL IN KENYA

Stuart, G & M. Cohen (2011) The Central Bank of Kenya (CBK) soon became transformative in response to fiscal and economic pressures arising from a revenue needy government, a weakly developed banking sector and the need to increase productive investment. At the time of independence, the Kenyan government faced the challenge of mobilizing revenues to finance the development of the state apparatus, its economic development policies and the indigenous business sector. The banking sector, then consisting entirely of foreign-owned banks, did not play an important role in financing the development needs of the emerging Kenyan entrepreneurs: controlled by their overseas parent companies, the banks’ lending policies were conservative and concentrated on prime business borrowers and short-term, trade-related financing (Bhagwati Jagdish, 1986a ). As there was no locally owned
banking sector in the 1960s, the Kenyan government chose the route of developmental central banking to channel financial resources into productive investments in Kenyan enterprises. According to Mas, I and D Radcliffe (2010) The current regulatory model for financial regulation in Kenya is a hodgepodge of institutional and functional regulation. There are seven Governmental agencies regulating specific segments of financial services. The Central Bank of Kenya (CBK) licenses and supervises the operations of all commercial banks excluding the Kenya Post Office Savings Bank (KPOSB) which is regulated by the Treasury Development Finance Institutions (DFIs) are regulated by different Government ministries. For instance, the Industrial Development Bank (IDB) is regulated by the Ministry of Finance, Industrial and Commercial Development Corporation (ICDC) by the Ministry of Trade and the Agricultural Finance Corporation (AFC) by the Ministry of Agriculture. The Capital Markets Authority (CMA) regulates the securities markets while the Retirement Benefits Authority (RBA) is responsible the pension sector. The Insurance Regulatory Authority (IRA) was established in 2006 to replace the Commissioner of Insurance who previously regulated the insurance industry. The Sacco Societies Regulatory Authority (SSRA) regulates all savings and credit co-operative societies. It is accountable to the Ministry of Cooperative Development. The Monopolies and Prices Department which is charged with antitrust powers and responsibilities is accountable to the Ministry of Finance. The existing regulatory arrangements for financial services involve a large number of regulators exercising jurisdiction over different sectors of the industry. It is fragmented with each regulatory agency being responsible for a particular segment. This largely politicized regulatory structure is a product of piece-meal reform and gradual evolution as opposed to deliberate planning (Mas, I & Radcliffe, 2010)

In Kenya, whereas some regulators have delegated legislative power, others do not, not all regulators in the financial services sector are exempted from the provisions of the State Corporations Act. (Johnson, S & Anord, S. 2011) Instances of regulatory duplication involve listed banks and insurance companies. For example, fund managers are regulated by both the Retirement Benefits Authority and Capital Markets Authority. Furthermore, takeovers and mergers involving listed companies must be approved by the CMA and the Commissioner of Monopolies and Prices. Conceivably, because none of the regulators has capacity to “look at the market as a whole,” no governmental agency commands all the necessary information to monitor systemic financial risk. The cardinal question is whether the foregoing challenges are sufficiently weighty to constitute the impetus for the shift in regulatory paradigm.

Central banks are key institutions to govern finance and the economy more generally. They play a stabilizing role by using monetary policy to ensure price stability and prudential regulation to ensure the stability of the financial system. They may also play a transformative role and use their regulatory powers to promote the development of a financial system that focuses on channeling financial resources into productive investment by actively encouraging financial deepening and inclusion the development of the financial sector and regulate the nature of its lending with interest rate and credit ceilings, but placed less emphasis on prudential controls and supervision. For instance, it rarely enforced mandatory requirements, although it had a number of instruments, such as cash reserve requirements and liquid assets ratios, at its disposal (KNBS, 2010).

Kenya was increasingly driven by fiscal policy considerations and the financial needs of the emerging indigenous banking sector (Stuart G. & Cohen, M. 2011). However, despite extensive intervention in financial market performances, CBK regulation did not interfere in lending decisions, except for the requirement that all commercial banks extend credit to agriculture amounting to at least 17 per cent of their deposit liabilities (Stuart G. & Cohen, M. 2011). Banks were thus able to continue lending primarily in accordance with commercial criteria (Stuart G. & Cohen, M. 2011). As CBK interventions had been more selective, the effects of central bank policy were not as damaging as in many other African countries; yet macroeconomic instability weakened.

**PROBLEM STATEMENT**

Apart from the Central Bank of Kenya which was established as early as 1966 because of its prominent role in the country’s monetary policies, the establishment of other regulatory bodies has been haphazard and chaotic. For instance, the insurance industry which is more advanced than the securities markets was not subject to any form of oversight before July 1987 when the Insurance Act, Cap. 487 came into
operation. Even, then, it was under the supervision of the Commissioner of Insurance (an officer in the ministry of finance). It was not until 2006 when the industry had a regulatory authority. The Capital Markets Authority was established in 1989. Finally, although savings and credit co-operative societies had been an integral part of the way of life of both rural and urban communities, it was not until 2009, that the Sacco Societies Regulatory Authority was created. The establishment of the last two authorities is sufficient evidence that government commitment to the institutional/functional regulatory model has not changed. The greatest potential of the commercial banking sector is where banks are very influential through their lending practices and by providing information. Commercial banks have less influence over larger companies. There is, however, scope for them to influence customer behavior through the financial products they offer. To date the most commercial banks have not focused on two areas of regulation: Firstly. Many have not made considerable progress in developing systems to reduce their own environmental impact. Secondly, most banks include some environmental analysis into their process although this tends to be focused on liability. This is coupled with the recent economic crises in the world due to weak controls in the finance market, financial institutions have exploited their clients hence the need for the study to determine the effect of financial sector regulation on the financial market performance in Kenya.

LITERATURE REVIEW
The Regulation of the commercial bank sector
As Kenya’s inflation was relatively modest until the mid-1980s, real interest rates were sufficiently high to promote saving and lending despite interest rate controls (Simpton, P. 2007). As a result, the financial system expanded between independence and the mid-1990s in terms of diversity, liquidity and credit to the private sector as a share of GDP. However, while the foreign-owned banks remained relatively healthy, locally owned private banks experienced two major episodes of financial fragility: one between 1984 and 1986, the other in the early 1990s. Mismanagement and fraud, and particularly insider lending to politically connected individuals, were the primary causes of the banking distress (Johnson, S 2004a). Growing macroeconomic instability, the loss of monetary control in 1992/93 and deficiencies in bank regulation and supervision explain the banking crises. However, the weakness of local banks and the increase in government borrowing to fund rising budget deficits did not crowd out private sector borrowing completely, given the considerable size of the domestic financial system and the access to foreign capital that Larger, established firms enjoyed (KNBS, 2010).

Although the fiscal crisis, balance of payment problems and banking sector distress made it increasingly difficult to sustain transformative policies, reforms in financial regulation stagnated during the 1980s and 1990s. To improve the balance between the central bank’s stabilizing and transformative roles, the government sought to reform regulation in three major areas: first, the conduct of monetary policy to reduce budget deficits and government reliance on domestic bank borrowing; second, the lifting of allocate controls; third, the strengthening of prudential regulation and supervision. Yet, on the whole, the reforms had only limited success. For instance, bank regulation and supervision were not effective (Schreiner, M. 2011)

In Kenya until 1993: although the CBK strengthened prudential legislation and supervisory capacity between 1984 and 1989, political interference in the monitoring and enforcement of regulation limited the effectiveness of the reforms. As the CBK’s stabilizing role had remained weak, Kenya experienced a major banking crisis in 1993, which finally led to more effective prudential regulation (Collins, D. J Mordoch et al 2009). The reform process was difficult, because the regulatory status quo had the support of several stakeholders: the financially distressed local banking sector wanted to leave regulation as it was, since it relied on the central bank to provide it with liquidity support and sought to retain its business models and management methods.

The revenue-needy government had a preference for the regulatory status quo because it relied on the domestic banking system, including the central bank, to provide it with funds for the state apparatus and election campaigns, and to reward political supporters (Johnson, S. 2004a). In the past decade, Kenya has undergone political and economic regime change. When Mwai Kibaki won the presidential election against Daniel Arap Moi in December 2002, the new government inherited a weak economy and financial
system. Supported by donors, the Kenyan government set out a programme of economic reform, the Economic Recovery Strategy for Wealth and Employment Creation for 2003-2007. The immediate objective was to improve the macroeconomic environment, primarily through a reduction in the government’s domestic borrowing. In the ensuing years, the economy experienced a sustained recovery, and budget performance has improved remarkably as a result of an increase in aid and, foremost, tax revenue and the dismissal of excess public sector workers (Johnson, S. 2004a)

Financial sector regulations

Financial institutions are exposed to a variety of risks among them; interest rate risk, foreign exchange risk, political risk, market risk, liquidity risk, operational risk and credit risk (FSD and central bank of Kenya, 2009). In some instances, commercial banks and other financial institutions have approved decisions that are not vetted; there have been cases of loan defaults and nonperforming loans, massive extension of credit and directed lending. Policies to minimize on the negative effects have focused on mergers in banks, better banking practices but stringent lending, review of laws to be in line with the global standards, well capitalized banks which are expected to be profitable, liquid banks that are able to meet the demands of their depositors, and maintenance of required cash levels with the central bank which Regulatory constraints may directly limit banks’ risk-taking as regulations may limit banks’ portfolio composition or may force banks to expand into areas that they previously would not have entered. Regulations may lower the credit standards applied by banks while enhancing rapid expansion of credit (Simpton, P. 2007). Evolution of credit risk management in banking in the last decade from the point of view of the regulator was that of protecting the interests of depositors by promoting prudent business behaviour and risk management on the part of individual banking institutions though not to eliminate failure but to keep their incidences low. The pace of evolution can be linked to the realization that the techniques are developed for the measurement of credit risk (Stuart G. & Cohen, M).

Adopting different credit risk management policies is meant to differentiate different banks in terms of credit evaluation

Capital is also used as cushion to protect depositors in case of loss. Capital adequacy ratio is measured in terms of total capital as a percentage of total risk weighted assets which show the amount of capital an institution holds relative to the risk profile of its assets. Capital adequacy is evaluated using the minimum core capital which is the absolute amount of capital that institutions are required to maintain at all times for banks and mortgage finance companies the requirement as by the central bank. (Baumol, W.J. 1964)

The guiding principles as embodied in the three pillars are generally suitable for any bank in any jurisdiction, although full account should be taken of individual circumstances. The three pillars are not viewed as separate but rather as complementary with a general attempt to enhance the international capital adequacy framework and to improve its overall effectiveness and operation. The pillar on market discipline focuses on the disclosures in the areas of structure of capital, risk exposures and capital adequacy that should be made by banking institutions in order to advance the role of market discipline in promoting bank capital adequacy (Baumol, W.J 1964).

Commercial banks are the foundation of the payment system in many economies by playing an intermediary role between savers and borrowers. (Bhagwati Jagdish 1986b) They further enhance the financial system by ensuring that financial institutions are stable and are able to effectively facilitate financial transactions. The main challenges to commercial banks in their operations are the disbursement of loans and advances. There is need for commercial banks to adopt appropriate credit appraisal techniques to minimize the possibility of loan defaults since defaults on loan repayments leads to adverse effects such as the depositors losing their money, lose of confidence in the banking system, and financial instability (KNBS,2007)

Financial regulation policy

Existing financial policy regarding banks, insurance and investment services is principally focused on creating a single market for financial services. There appears only modest scope to encompass environmental issues in most areas, as it is not evident that the environmental risks are sufficient to warrant special treatment by regulators. There is a potential argument for making some form of environmental management compulsory or by requiring the disclosure of lending to high risk sectors,
There is a potential for action in the areas of where the policy has a clear mandate and effective policy actions are possible, desirable and justifiable (Collins, P.J Mordoch et al 2009).

**Financial market performance Regulation**

Stuart G. & Cohen, M (2011) indicates that the theoretical underpinning for public intervention in economic matters is traditionally based on the need to correct market imperfections and unfair distribution of the resources. Three more general objectives of public intervention derive thereby: the pursuit of stability, equity in the distribution of resources and the efficient use of those resources. The regulation of the financial system can be viewed as a particularly important case of public control over the economy. The accumulation of capital and the allocation of financial resources constitute an essential aspect in the process of the economic development of a nation. (Stuart, G. & Cohen, M. 2011) The peculiarities of financial intermediation and of the operators who perform this function justify the existence of a broader system of controls with respect to other forms of economic activity and Various intermediaries. Theoretical motivations have been advanced to support the opportunity of a particularly stringent regulation for banks and other financial intermediaries. Such motivations are based on the existence of particular forms of market failure in the credit and financial sectors

Financial market performance has traditionally included the banking, financial and insurance segments. The bounds dividing institutions, instruments and markets were clear-cut, so that further distinctions were drawn within the different classes of intermediaries with banks specialized in short or medium/long term maturities, functional/commercial operations, deposits and investments; with financial intermediaries handling broker-dealer negotiations, asset management and advisory functions, and with insurance companies dealing in life and other insurance policies, the financial market performance is an economic space wherein operators of various kinds, banks, financial intermediaries, mutual funds, insurance companies, pension funds offer financial instruments and services.

Financial market performance regulation is the pursuit of macroeconomic and microeconomic stability; Safeguarding of the stability of the system translates into macro controls over the financial exchanges, clearing houses and securities settlement systems. Measures pertaining to the micro stability of the intermediaries can be subdivided into two categories: general rules on the stability of all business enterprises and entrepreneurial activities, such as the legally required amount of capital, borrowing limits and integrity requirements; and more specific rules due to the special nature of financial intermediation, such as risk based capital ratios, limits to portfolio investments and the regulation of off-balance activities. (Bator Francis, M. 1958) Financial regulation ensures transparency in the market and in intermediaries and investor protection. This is linked to the equity in the distribution of the available resources and may be mapped into the search for "equity in the distribution of information as a precious good" among operators. At the macro level, transparency rules impose equal treatment for example, rules regarding takeovers and public offers and the correct dissemination of information on insider trading, manipulation and, more generally, the rules dealing with exchanges microstructure and price-discovery mechanisms. At the micro level, such rules aim at non-discrimination in relationships among intermediaries and different customers, conduct of business rules (Baumol, W.J. 1964).

Schreiner, M. (2011) financial regulators ensure that listed companies and market participants comply with various regulations under the trading policies. The trading policies demand that listed companies publish regular financial reports, ad hoc notifications or directors’ dealings. Whereas market participants are required to publish major shareholder notifications. Monitor compliance by listed companies with their disclosure requirements to ensure that investors have access to essential and adequate information for making an informed assessment of listed companies and their securities.

Financial regulation guards against anti-money laundering by offering supervision that ensures that criminal activities do not threaten the reputation and financial strength of an institution, or endanger the integrity and stability of the whole financial market performance. (Jack, W. & T. Suri 2010) All financial institution needs to have policies in place which prevents transactions with criminal background. Supervision of banks and financial services providers. Banking policies lays down rules for banks which they have to observe when they are being established and when they are carrying on their business. These rules are designed to prevent unwelcome developments that might disrupt the smooth functioning of the banking system. Thus ensuring a strong and efficient banking system (Jack, W. & T.
Suri 2010) imposing regulations on the financial system encourage information production; the government can reduce asymmetric information and improve the efficiency of financial market performances and thus the overall economic efficiency. (Jack, W. & T. Suri 2010) For the stock markets, these regulations can take the form of requiring firms issuing shares to adhere to standard accounting principles and to publicly disclose information about their sales, assets and earnings. In addition, the presence of asymmetric information provides a rationale for the government to directly engage in ensuring the safety and soundness of financial institutions, particularly stock markets and banks.

The strategy for the government to promote safety and soundness of this financial market performance is to ensure that they disclose a wide range of information that helps the market assess the quality of the financial institution's portfolio and the amount of the institution's exposure to risk. More public information about the risks incurred by financial institutions and the quality of their portfolios can better enable stockholders, creditors, policyholders and depositors to monitor these institutions, and so act as a deterrent to their engaging in risky activities that might lead to failure. (Jack, W. & T. Suri 2010) Thus, governments can play a role in imposing restrictions on the asset holdings of these institutions to prevent them from taking on too much risk. One such restriction is capital requirements, particularly for banking institutions, which can reduce the incentives of these institutions to take risk. When a financial institution is forced to have a large amount of equity capital, it has more to lose if it fails and is thus less likely to engage in risky activities. Therefore, not only are government regulations needed to restrict risk taking, but supervision is required as well (Jack, W. & T. Suri 2010)

There is a need for the government to improve the efficiency of financial market performances by intervening to promote information production and to restrict financial institutions from taking too much risk, there is also a need for government intervention to prevent financial crisis. (Simpton, P. 2007) In recent years, an asymmetric information theory of financial crises a nonlinear disruption to financial market performances in which asymmetric information problems of adverse selection and moral hazard become so much worse that financial market performances are unable to efficiently channel funds to economic agents who have the most productive investment opportunities.

Macro-prudential regulation, supervision and intervention require the close co-operation of the central bank, the supervisor/regulator and the fiscal authority. To fulfill its macro-prudential role, the central bank requires the fiscal back up of the ministry of finance. (Mas, I & D Radcliffe, 2010) This is because by accepting private securities as collateral in its open market operations and at its discount window, and through the outright purchases of private securities associated with qualitative easing or credit easing, the central bank takes private credit risk on its balance sheet. To do this without becoming an active fiscal actor in its own right, the central bank requires a Treasury indemnity for the full amount of its private sector exposure.

FSD Kenya and Central bank of Kenya (2009) distinguishes between monetary control and monetary autonomy, where monetary control is the ability of the Central Bank to control monetary aggregates demand and the supply of money, while monetary autonomy is the ability of the Central Bank to influence output and prices. Cohen argues that the introduction of electronic currency substitutes will not reduce monetary control, but may reduce monetary autonomy, in other hand; Collins, D. J Mordoch et al (2009) argues that electronic currency substitutes are part of a general process of technological advance and globalization that are rendering national authorities of all kinds impotent and obsolete. Johnson (2004a) presents the standard justification for regulation of financial market performances systemic risk and customer protection; they argued that both will justify regulation of electronic currency substitutes. They noted that European regulators have already defined stored value cards as the taking of a deposit, so that only banks may issue them. Several other authors, particularly Central Bankers such as Stuart, G. & Cohen, M. (2011), have argued that the state can always use its power to regulate electronic money providers if they prove to be detrimental to monetary policy or financial stability. The global internet crime is socially acclaimed and glamorized in Kenya. The above situation constitutes the environment upon which Electronic banking has emerged in Kenya. Although the level of the adoption and practice of electronic banking especially Internet banking has remained quite insignificant, global projections still remains that Information Technology would continue to play a revolutionary role in the development and delivery of banking products and services all over the world. In effect, it is this projection that has
raised pertinent regulatory questions concerning Electronic banking, especially in Internet fraud-infested countries like Kenya. The key issue is how to handle the rising level of frauds and forgery prevalent in the entire banking system. (Stuart, G. & Cohen, and M. 2011),

**Regulatory structure of Kenya’s financial services**

The existing regulatory arrangements for financial services involve a large number of regulators exercising jurisdiction over different sectors of the industry. It is fragmented with each regulatory agency being responsible for a particular segment. This largely politicized regulatory structure is a product of piece-meal reform and gradual evolution as opposed to deliberate planning.

**Central Bank of Kenya**

According to KNBS (2009) The Central Bank of Kenya is at the apex of the financial market performance and it is established under Article 231 of the new Constitution. The Constitution does not expressly state the regulating function of the Central Bank but under sub-article 2 it is prescribed that an Act of Parliament shall provide for other functions conferred on the Bank. The Central Bank of Kenya Act Cap 491 Laws of Kenya is such kind of an Act and it also establishes the Bank under section 3. Section 4A(1) of the Act then provides that the Central Bank of Kenya shall license and supervise authorized dealers and also formulate and implement such policies as best promote the establishment, regulation and supervision of efficient and effective payment, clearing and settlement systems. These two functions clarify the regulatory functions of the bank. The Central Bank of Kenya oversees the robust and systemic supervision of commercial banks, non bank financial institutions, mortgage companies, Forex bureaus, building societies and micro finance institutions. The Central Bank supervises commercial banks through ensuring the enforcement of the Banking Act regulations, for instance banks are not allowed to grant a loan to an individual borrower in excess of 25% of the capital (KNBS, 2009)

**Insurance Regulatory Authority**

The Insurance Regulatory Authority (IRA) was established in 2006 as a governmental agency tasked with the regulation, supervision and development of the insurance industry in Kenya. The body is also mandated to assist in the administration of the Insurance Act Cap 487 Laws of Kenya. IRA also provides advice to the government on insurance policy issues. The Authority is in charge of supervision of insurance companies, insurance brokers, and agents, assessors and adjusters and health management organizations (FSD Kenya and Central bank of Kenya 2009).
Capital Markets Authority
The Capital Markets Authority (CMA) was established in December 1989 under the Capital Markets Authority Act, renamed the Capital Markets Act in 2000 after amendments. The CMA is responsible for the licensing, regulation and supervision of all capital markets participants. The CMA also disseminates rules and regulations within its jurisdiction, and is empowered to carry out enforcement and sanctions. All companies that issue securities are regulated under the Capital Markets Act, the Companies Act, and the CMA's regulations. According to the 2004 World Bank Project Appraisal Document, the CMA lacks sufficient capacity and operational independence. The CMA is mandated to supervise securities exchanges, fund managers, Central Depository Systems, custodians, investment banks, collective investment schemes, investment advisers, stock brokers, securities dealers, listed companies, credit rating agencies and venture capital firms. (FSD Kenya and Central bank of Kenya 2009).

Retirement Benefits Authority
The Retirement Benefits Authority (RBA) is established under section 3 of the Retirement Benefits Act No.3 of 1997. The objects and functions of the Authority are established under section 5 of the Act as follows: regulate and supervise the establishment and management of retirement benefits schemes; protect the interests of members and sponsors of retirement benefits sector; promote the development of the retirement benefits sector; advise the Minister on the national policy to be followed with regard to retirement benefits schemes and to implement all Government policies relating thereto and any other functions as are conferred on it by any legislation. The Authority regulates retirement benefit schemes, pooled schemes, the National Social Security Fund (NSSF), administrators, fund managers and custodians (FSD Kenya and Central bank of Kenya 2009).

Despite the fact that there is an overlap in financial market regulation in Kenya, there are is a regulatory gap in that there are some sectors that do not fall under any regulatory jurisdiction. The first is the Savings and Credit Cooperative Societies (SACCOs). The SACCO system is a mutual membership organization which involves pooling of voluntary savings from members in the form of shares and lending to other members. SACCOs operate under the Co-operatives Societies Act which gives the Commissioner and Registrar of Cooperative Societies regulatory and supervisory powers over SACCOs. However, the Cooperative Societies Act has been considered inadequate to regulate these societies.

The Kenya Post Office Savings Bank is yet another area where there is a regulatory gap in Kenya’s financial market performance. The Kenya Post Office Savings Bank (KPOSB) was incorporated in 1978 under the KPOSB Act Cap 493B Laws of Kenya. The mission of the bank is “to sustainably provide savings and other financial services to our customers, through a countrywide branch network, by use of modern technology in delivery of efficient and effective services (FSD Kenya and Central bank of Kenya 2009)

RESEARCH DESIGN AND METHODOLOGY

Study Area
The study was carried out in the financial institutions in Kisii central district. The research was conducted to establish the effects of effective implementation of financial sector regulation on the financial market performance in Kenya.

Research Design
The study employed case study research design. Kombo and Tromp (2006) point out that a case study seeks to describe a unit in detail, in context and holistically. A great deal can be learned from a few examples of the phenomena under study, as in this case. The study therefore sought to establish The upshot of financial Sector regulation on the financial market performance in Kenya Perspectives from Kisii county, Kenya

Target Population
The Financial institutions have approximately 400 workers serving at different levels and departments in the financial institutions. These formed the target population. The departments include; the Human Resource Management Department, Finance and Administration Department, and credit Management Department.
Sampling and Sampling Techniques

Sample Size Determination
According to Kombo and Tromp (2006) a sample size of 10% or 20% of the target population selected using stratified sampling is appropriate. A twenty (20%) sample size is considered sufficient, giving a sample size of 150, which was expected to give the desired results. The sample was taken proportionately, the bigger stratum, would contribute more to the sample.

Sampling Procedures/techniques
The population was divided into the departments contained therein. The departments included; the Human Resource Management Department, Finance and Administration Department, and credit Management Department. These departments would then be divided into parts (strata) and stratified random sampling method used such that each part (stratum) was as homogeneous as possible. The strata were according to the employee’s level of managerial duties in the respective department, for instance, top management, middle management and lower management and others.

The method involved picking the sample from each stratum; for instance by use of sampling proportional to size, that is 20% of the stratum total (sub population)) as shown in table on the sample design below:

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<th>Table 3.1: Population and sample size</th>
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<th>POPULATION CATEGORY</th>
<th>POPULATION FREQUENCY</th>
<th>SAMPLE SIZE</th>
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<tr>
<td>Top management(HODs and sectional Heads)</td>
<td>33</td>
<td>12</td>
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<tr>
<td>Middle management</td>
<td>117</td>
<td>44</td>
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<tr>
<td>Lower management and others</td>
<td>250</td>
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<td>Total</td>
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Data collection instruments
The data collection instruments that were employed include; questionnaires, interviews, participant’s observation and documentary data.

Data Analysis Procedure
Both quantitative and qualitative data were obtained from the study. First, editing, coding and tabulating the received raw data and final analysis was done using the statistical package for social sciences (SPSS). Thereafter summary statistics such as measures of central tendency, measures of dispersion and use of percentages was used to present the findings. The data was the presented using descriptive statistics such as proportions, frequency distributions, percentages, diagrams and pie charts to find out the upshot of financial Sector regulation on the financial market performance in Kenya Perspectives from Kisii county, Kenya for the questions that required opinions of respondents, qualitative analysis was used for categorizing responses that was similar and tables were drawn to analyze the respondents.

Validity and Reliability of Research Instruments

Validity of the Instruments
The validity refers to the extent to which an instrument measures what it purports to measure (Mugenda and Mugenda 2003). It is the degree to which results obtained from the analysis of the data actually represent the phenomenon under study.

For this research, piloting was carried out to establish the validity of the research instrument. For the research instrument to be considered valid, the content selected and included in the questionnaire is such that it should relevant to the variable being investigated (Kerlinger 1973).

The questionnaire was pre-tested by using nine respondents, three from each department. These helped improve the studies’ validity.

Reliability of the Instruments
Reliability refers to the degree to which measurements are free from error and, therefore, yield consistent results or data after repeated trials. Reliability was tested using Spearman-Brown Coefficient, also known as Spearman-Brown Prophecy Coefficient (Mugenda and Mugenda 2003). This was done in order to establish the extent to which the questionnaire elicits the same responses every time it was administered.
The result that was obtained from the pre-test was used to assist the researcher in revising the questionnaire to make sure that it covers the objectives of the study.

**Data Analysis Methods**

The researcher used descriptive statistics (variance and standard deviations) as well as inferential statistical methods. The descriptive statistics involves computation of frequencies and means and the generation of frequency tables in order to present the findings. Descriptive statistical techniques that include percentages and frequencies to summarize and compute the data were also used. The hypotheses were tested using $X^2$ (chi-square). The researcher used the computer package of Statistical Package for Social Sciences (SPSS) program for ease of data analysis.

The inferential statistics used T-test and correlation. T-test was used to show if there are significant differences between the financial sector regulation and financial market performance.

**PRESENTATION, ANALYSIS AND INTERPRETATION OF DATA**

This chapter presents the data, its analysis and interpretation. It dealt with interview schedule for top management and heads of sections, questionnaires for top, middle and lower management and document analysis. All the questionnaires administered, that is one hundred and fifty were returned. In many cases, a five point scale ranging from “strongly agree” (SA), to “strongly disagree” (SD) were used to show respondents responses. To indicate how often some activities took place, terms such as always, frequently, occasionally, seldom and never were used.

<table>
<thead>
<tr>
<th>Target population</th>
<th>Sample</th>
<th>Return rate</th>
<th>Return rate percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Top management</td>
<td>21</td>
<td>21</td>
<td>100%</td>
</tr>
<tr>
<td>Middle level</td>
<td>52</td>
<td>47</td>
<td>90.38%</td>
</tr>
<tr>
<td>Lower level</td>
<td>75</td>
<td>64</td>
<td>85.33%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>150</td>
<td>132</td>
<td>88.0%</td>
</tr>
</tbody>
</table>

**4.2.1 Gender and Age of respondents**

Table 4.2 shows the gender and age of trainees

<table>
<thead>
<tr>
<th>Item</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gender</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>93</td>
<td>70.5</td>
</tr>
<tr>
<td>Female</td>
<td>39</td>
<td>29.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>132</td>
<td>100.0</td>
</tr>
<tr>
<td><strong>Age</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Below 30 years</td>
<td>22</td>
<td>16.7</td>
</tr>
<tr>
<td>31-40 years</td>
<td>42</td>
<td>31.8</td>
</tr>
<tr>
<td>41-50 years</td>
<td>50</td>
<td>37.9</td>
</tr>
<tr>
<td>51 and over years</td>
<td>18</td>
<td>13.7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>132</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Table 4.2 indicates that 93(70.5) of the respondents are male while 39(29.5) are female. It also shows that 22(16.7%) respondents were aged below 30 years, 42(31.8%) were aged between 31 and 40 years, 50(37.9%) respondents were aged between 41 and 50 years, and 18(13.7) were aged above 50 years. This implies that most of the services are offered by the males. It also shows that majority of the work force are middle aged hence will have more time to work for the organization.
4.2.2 The level of financial sector regulation

Table 4.3 shows the managerial levels of the respondents in the organization.

<table>
<thead>
<tr>
<th>Item</th>
<th>Frequency</th>
<th>Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>High level</td>
<td>21</td>
<td>15.9</td>
<td>15.9</td>
</tr>
<tr>
<td>Middle level</td>
<td>47</td>
<td>35.6</td>
<td>35.6</td>
</tr>
<tr>
<td>Lower level</td>
<td>64</td>
<td>51.5</td>
<td>51.5</td>
</tr>
<tr>
<td>Total</td>
<td>132</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Table 4.3 shows that 21(15.9%) of the respondents indicate there is a high level of financial sector regulation, 47(35.6%) there is the middle regulation, 64(51.5%) lie in the lower level regulation. This implies that most of the respondents indicate lower levels of financial sector regulation. It can therefore be concluded that most of the efforts and programmes aimed at the implementation of financial sector regulation are concentrated on the lower level.

4.2.3 Departments concern with financial sector regulation

Table 4.4 shows the various departments that the respondents belong to.

<table>
<thead>
<tr>
<th>Item</th>
<th>Frequency</th>
<th>Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>HRM and HRD</td>
<td>61</td>
<td>46.2</td>
<td>46.2</td>
</tr>
<tr>
<td>Finance and Administration</td>
<td>42</td>
<td>31.8</td>
<td>78.0</td>
</tr>
<tr>
<td>Credit Management</td>
<td>20</td>
<td>15.2</td>
<td>93.2</td>
</tr>
<tr>
<td>Others</td>
<td>9</td>
<td>6.8</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>132</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

From table 4.4, 61(46.2%) indicates that regulation belong to the HRM and HRD departments, 42(31.8%) Finance and Administration, 20(15.2%) to the credit Management and 9(6.8%) belong to the other sections. This representation indicates that HRM and HRD carry most of the role of financial regulation (46.2%). Finance and Administration and credit Management have smaller proportions of the regulation respectively. Other sections carry a very small proportion of 6.8%. This implies that with the introduction of a new program such as financial sector regulation, is needed in the implementation to factor in the number of the respondents in each department, so that they are proportionally represented in every aspect, for instance in training.

4.2.4 Duration concern with financial sector regulation

The table 4.5 indicates the duration the respondents had worked in the current position

<table>
<thead>
<tr>
<th>Item</th>
<th>Frequency</th>
<th>Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 5 years</td>
<td>50</td>
<td>37.9</td>
<td>37.9</td>
</tr>
<tr>
<td>6-10 years</td>
<td>56</td>
<td>42.4</td>
<td>80.3</td>
</tr>
<tr>
<td>11 and over years</td>
<td>26</td>
<td>19.7</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>132</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>
From table 4.5, 50(37.9%) have worked in the organization for less than five years, 56(42.4%) have worked for between 6 and 10 years and 26 have worked for over 11 years. This indicates that most of the respondents have not been in the organization for a long time. However the greatest percentage have been in the organization for between 5 and ten years, which is long enough for them to understand what is required of them in the organization. It can therefore be concluded that most respondents are capable of undertaking their programs under financial sector regulation, given the adequate duration they have been in the organization.

SUMMARY
The central bank is the natural choice to serve as the systemic regulator for four reasons. First, the central bank has daily trading relationships with market participants as part of its core function of implementing monetary policy and is well placed to monitor market events and to flag looming problems in the financial system. No other public institution has comparable insight and access to the broad flows in the financial system. Second, the central bank’s mandate to preserve macroeconomic stability is well matched to the role of ensuring the stability of the financial system. Macroeconomic downturns are often tightly connected to the financial system, and similar analyses, drawing on the disciplines of macroeconomics and financial economics, can provide guidance for both types of oversight. As a result, macroeconomic policy and systemic regulation are tailor-made for each other. Third, central banks are among the most independent of government agencies. Successful systemic regulation requires a focus on the long run. Because they face relatively short reelection cycles, politicians tend to focus on the short run. Insulating the systemic regulator from day-to-day interference by politicians will help ensure a systemic regulator’s success. The respect and independence that central banks enjoy therefore make them natural candidates to be systemic regulators. Fourth, the central bank is the lender of last resort. It has a balance sheet that it can use as a tool to meet systemic financial crises. As the lender of last resort, it will be called on to provide emergency funding in times of crisis.

STUDY RECOMMENDATIONS
The Cooperative Societies Act should be operationalized through setting out the implementing procedures since it has been considered inadequate to regulate these societies. The Kenya Post Office Savings Bank should be put under the Central Bank to curb the regulatory gap in Kenya’s financial market performance. The governments can play a role in imposing restrictions on the asset holdings of these institutions to prevent them from taking on too much risk. One such restriction is capital requirements, particularly for banking institutions, which can reduce the incentives of these institutions to take risk. When a financial institution is forced to have a large amount of equity capital, it has more to lose if it fails and is thus less likely to engage in risky activities. Therefore, not only are government regulations needed to restrict risk taking, but supervision is required as well.

REFERENCES


