A Bill for an Act to Establish the Zanzibar National Business Council and provide other matters connected thereto ........................................ 129

NOTICE

The Bill following hereunder shall be presented before the House of Representatives for the first reading which will start its session on 10 day of May, 2017 and is gazetted for the public notice incorporating together with its objects and reasons.

ZANZIBAR (DR. ABDUL HAMID Y. MZEE)
20 April, 2017

Secretary to the Revolutionary Council and the Chief Secretary
A BILL
for
AN ACT TO ESTABLISH THE ZANZIBAR NATIONAL BUSINESS COUNCIL AND PROVIDE OTHER MATTERS CONNECTED THERETO

1. This Act may be cited as the Zanzibar National Business Council Act of 2017 and shall come into operation upon being assented to by the President.

2. This Act shall apply to the Public and Private sector on business forum and other matters related thereto.

3. In this Act, unless the context requires otherwise:
   “Act” means the Zanzibar National Business Council Act;
   “Chairman of the Council” means the President of Zanzibar and Chairman of the Revolutionary Council;
   “Chamber” means the Zanzibar National Chamber of Commerce, Industries and Agriculture;
   “Committee” means the Committees of the Council established under section 17 of this Act;
   “Council” means the Council established under section 5 of this Act;
   “Executive Secretary” means the Executive Secretary of the Council appointed under section 11(1) of this Act;
   “Minister” means the Minister responsible for Trade;
   “President” means the President of Zanzibar and Chairman of Revolutionary Council;
   “Steering Committee” means the steering committee established under section 14 of this Act;

4. The Zanzibar National Business Council shall have the followings objectives, to-
   (a) provide forum for Public and Private sector dialogue with a view to reach consensus and mutual understanding on strategic issues related to economic management and development;
   (b) accelerate economic growth in order to reduce poverty and maintain sustainable development;
   (c) assess from time to time developments of external and domestic business environment, challenges and opportunities with the view to promoting practical solutions;
   (d) exchange views on the prevailing operating and regulatory environment with the view to enhancing the easy of doing business and service delivery;
   (e) assess and propose improvement in policy environment that will encourage Foreign Direct Investment (FDI), and competitiveness; and
   (f) consider any other matter deemed relevant to the achievement of objectives of the Zanzibar National Business Council (ZNBC).

PART TWO
ESTABLISHMENT OF THE ZANZIBAR NATIONAL BUSINESS COUNCIL

5.-(1) There is hereby established a Council to be known as Zanzibar National Business Council by its acronym shall be known as ZNBC.
(2) The Council shall be a business forum for public and private sector dialogue.

6.-(1) There shall be a common seal of the Council in a shape and size proposed by the steering committee and determined by the Council.

(2) The application of the seal of the Council on any document shall be authenticated by the signature of the Executive Secretary or any other officer of the Council authorized by him.

(3) Every document purporting to be an instrument issued by the Council, sealed with the seal of the Council and authenticated in accordance with sub section (2) of this section, shall be deemed to be an instrument of the Council and shall be received in evidence without further proof.

7.–(1) The Council shall be composed of the following members-

(a) the President who shall be a Chairman;

(b) Ministers from Ministries of Revolutionary Government of Zanzibar; and

(c) members from Private Sector.

(2) Not withstanding with requirement of sub-section (1) (b) and (c) of this section the ratio of the council members from public sector and private sector shall be equal.

(3) The Chairman may invite any person with special knowledge from public or private sector to attend the Council meeting for providing expertise as the Chairman deems necessary.

8.–(1) The Chairman shall have the power to appoint the members of the Council as follows:

(a) Ministers from different Ministries as he deems appropriate; and

(b) Heads from the Private Sector organizations who shall come from Zanzibar National Chamber of Commerce, Industry and Agriculture (ZNCCIA) and non- ZNCCIA members.

(2) In appointing members under sub section (1) (b) of this section, the President shall consult with the Chamber.

(3) Subject to provisions of sub section (2) of this section, the President shall consider gender in appointing the members from private sectors.

(4) The members from Private sector shall come from sector including trade, finance, industry, tourism, agriculture and fisheries, mining, transport and communication, education, health, construction and engineering, and other commercial sector.

(5) The Chairman of the Council after receiving proposal and after consultation with private sector may remove and replace and member from private sector.

9. The functions of the Council shall be:

(a) to promote public private partnership;

(b) to provide platform business dialogue between Public sector and Private sector;

(c) to consider issues emanating from the business forums pertaining to economic development and suggest strategic resolutions to the responsible sectors for implementation;

(d) to conduct or cause to be conducted research, surveys or study into any aspect of social and economic development policy as the Council may deem necessary;
(e) to review the implementation of the council’s resolutions by the responsible Sectors;

(f) to receive, consider and provide recommendations on policy, researches, reports or proposals submitted to the Council related to business and economic development by the sectors;

(g) to set targets as well as performance benchmarks for implementing Council’s directives, decisions or resolutions;

(h) to monitor and evaluate the implementation of the functions of the Council;

(i) to receive and consider the annual performance reports of the Council and provide guidance;

(j) to liaise with others business Councils from outside of Zanzibar for seeking knowledge and information sharing;

(k) to establish Committees where necessary for carrying out functions of the Council;

(l) to receive implementation report from Regional Council for approval; and

(m) to perform any other function for the purpose of enhancing business environment and economic development.

(2) The Council may, if deems fit for the proper discharge of its functions; delegate some of its functions to its committee or Executive Secretary or Regional Council for the better and effective performance of the Council.

10. The Council meeting, quorum, resolution shall be conducted as provided in the First Schedule of this Act.

11. (1) There shall be Executive Secretary of the Council who shall be appointed by the President.

(2) A person shall be qualified to be appointed as Executive Secretary, if he holds at least a first degree in the field of Public Administration, Business Administration, Law, Economic and other related field from recognized University and have working experience at least five years.

(3) For the purpose of this Act, the Executive Secretary shall be responsible for day to day management of the activities and for coordinating functions of the Council.

(4) The Executive Secretary shall be answerable for conducting and execution his function as directed by the Council or Steering Committee.

12. (1) The Executive Secretary shall perform the following duties, to-

(a) perform day to day activities of the Council;

(b) keep record of the meeting of the Council and the Committee;

(c) prepare agenda of the Council meetings, Steering Committee and Committees;

(d) make follow up of the implementation of the Council’s resolutions;

(e) coordinate the Regional Council activities;

(f) prepare the annual budget of the Council’s activities and submit to the Steering Committee for approval;
(g) formulate Council Strategic Plan;
(h) prepare annual performance report of the Council; and
(i) perform any other function directed by the Council or Steering Committee.

(2) In implementing the functions mentioned under sub-section (1) of this section, the Executive Secretary shall be under the supervision and guidance of the Ministry responsible for Trade.

(3) Subject to sub-section (1) of this section, the Executive Secretary shall comply with directives or guidelines given to him by the Council.

13.-(1) The Executive Secretary may, after approval of Steering Committee, employ such number of the staff as he considers necessary to carry out its functions in accordance with the Public Services Act.

(2) The staff of the Council employed under sub-section (1) of this section, shall be under the control and supervision of the Executive Secretary.

PART THREE
ESTABLISHMENT AND COMPOSITION OF THE STEERING COMMITTEE OF THE COUNCIL

14. There shall be a Steering Committee of the Council.

15.-(1) The Steering Committee shall consist of ten members with equal representation from the Public and Private sector as follows-

(a) the Chief Secretary and the Secretary of the Revolutionary Council who shall be the Chairman of the Steering Committee;

(b) Co-Chairperson who shall be nominated by the Steering Committee from members of the Private sector;

(c) members from the Public Sector shall be appointed by the Chief Secretary as he deems appropriate; and

(d) members from the Private Sector shall be senior officials representing their parent Organizations and shall come from Chamber, Employers Association, Tourism Investors, Marine transport and NGO’s.

(2) In appointing the members from private sector, the Chamber and other Organizations which are not member of the Chamber shall submit their proposed names to Chief Secretary for appointment.

(3) The Executive Secretary shall be the Secretary of the Steering Committee.

(4) Without prejudice the composition of the Steering Committee, Private sector members may be changed by the Steering Committee where necessary.

16. The Functions of the Steering Committee shall be, to-

(a) organize meeting of the Council;

(b) prepare agenda of the meeting of the Council;

(c) supervise and follow up the implementations of recommendations and resolutions of the Council;

(d) oversee the functions of the Executive Secretary of the Council in order to ensure the intended objectives are attained;
(e) draw up procedures and protocols for handling and routing the decisions and agreements of the Council including monitoring and implementations of Council decisions;

(f) facilitate meetings of the Committees of the Council;

(g) approve annual budget, work plan and employment issues and submit to the Minister for information;

(h) facilitate the functions of the Council;

(i) supervise the general management and administration of the Council;

(j) establish organization structure and working procedure as may be necessary for implementation functions of the Council;

(k) establish committee whether of its own members or otherwise, to whom it may delegates such of its powers as it may deems appropriate;

(l) approve action plan and objective to the Committee and monitor its progress in achieving them on continuous bases; and

(m) perform any other duty conferred upon it under this Act or directives issued by the Council.

17. The meeting, quorum, decision of the Steering Committee shall be conducted as provided in the Second Schedule of this Act.

PART FOUR
ESTABLISHMENT OF THE COMMITTEES OF THE COUNCIL

18.-(1) There shall be Committees established by the Council as may thinks appropriate.

(2) The Committee established under sub section (1) of this section, shall have the power to perform any matter brought to them by the Council, Institution of business community or any person interested thereto.

(3) The Council shall have the following Committees-

(a) economic, Trade, Investment and Tax Committee;

(b) tourism Committee;

(c) agriculture, Livestock and Fisheries Committee; and

(d) labour issues Committee.

(4) Without prejudice the provisions of sub section (3) of this section, the Council may establish or remove any other Committees as it considers necessary for the performance of its functions under this Act.

(5) The members of the Committees established under sub section (3) of this section shall be as provided under Second Schedule of this Act.

(6) Subject to the directives and instructions as may be provided by the Council, the Committee may regulate its own procedure.

19.-(1) The Committees may co-opt any person with specialized knowledge to attend and participate in the deliberation of the committee for the purpose of advising such a committee on any matter, provided that, the co-opted person shall not be entitled to vote at the meeting.

20.-(1) Each Committee of the Council shall have its own functions as follows –
(a) economic, Trade, Investment and Tax Committee shall be responsible for-

(i) facilitating implementation the decisions of the Council or business forum;

(ii) receive any issues or complain related to business from any interested person for determination;

(iii) advising on factors for sustainable economic development;

(iv) propose factors enhancing conducive business environment for Trade, Industry and Investment;

(v) solving problems facing trade, Industry and investment;

(vi) enhancing of revenue and tax collections;

(vii) identify problems from tax regime and solving them;

(viii) address investment opportunities to the Public Private Partnership; and

(ix) performing any other matters directed by the Council.

(b) Tourism Committee shall be responsible for-

(i) advising on the development of tourism;

(ii) identifying Problems facing tourism and propose solutions;

(iii) proposing and address measures to overcome the problems relating to Tourism industry;

(iv) propose and address measures for promoting Tourism Industry;

(v) facilitate implementation of the Council; and

(vi) perform any other matters directed by the Council.

(c) Agriculture, Livestock and Fisheries Committee shall be responsible for-

(i) advising on the development of Agriculture, Livestock and Fisheries sectors;

(ii) identifying Problems facing Agriculture, Livestock and Fisheries sectors and solutions;

(iii) facilitate implementation of the decisions of the Council;

(iv) proposing measures to solve those problems relating to agriculture, livestock and fisheries issues; and

(v) performing any other matters directed by the Council.

(d) Labour Issues Committee shall be responsible for-

(i) identifying employment opportunities;

(ii) address the problems facing employees and propose solutions;

(iii) identifying labor issues and propose measures for improvements;

(iv) facilitating implementation the decisions of the Council; and
(v) performing any other matters directed by the Council.

(2) The Council may add or change the Committees or members of the Committees where it deems appropriate.

(3) The Executive Secretary shall be a Secretary of the Committees

(4) The Chief Secretary shall notify in writing the member of the Committee on their membership.

(5) The Committees shall submit the implementation report for approval as required by the Council within period determined by the Executive Secretary.

PART FIVE

PROVISIONS RELATING TO THE REGIONAL COUNCIL

21. (1) There shall be a Regional Council in each Region which shall be responsible to exercise the functions delegated by the Council at Regional level.

(2) The Regional Commissioner from respective Region shall be the Chairman of the Regional Council.

(3) The Regional Council shall be composed of twelve members, six from Public Sector and six from Private Sector.

(4) Members of the Regional Council from Public Sector shall be appointed by Regional Commissioner in consultation with relevant Public Sector Organizations.

(5) The members of Regional Council from Private Sector shall be appointed by the Regional Commissioner in consultation with the key Private sector Organizations within the Region.

(6) Regional Administrative Secretary shall be the secretary of the Regional Council.

22. The Regional Council shall have the following functions, to-

(a) implement the decisions of the Council;

(b) provide business recommendations to the Council;

(c) submit performance report to the Council;

(d) communicate to the Executive Secretary to any existing issue related to business for deliberation and solutions;

(e) keep a dialogue platform between public and private sectors at regional level;

(f) receive and consider issues relating to the improvement of business and economic development in the region and provide recommendation;

(g) discuss and find solutions of the bottlenecks facing business development in the region; and

(h) perform any other functions as directed by the Council.

23. (1) The Regional Council shall have the role to facilitate the functions of the Council in the level of respective Regional in order to provide business forum between government and private sectors.

(2) The Regional Council shall exercise its function under the supervision and directives from the Council.

(3) The Regional Council shall meet at least twice in every year, but may at any time convene a meeting, where it deems necessary.
(4) The Regional Council may establish working Committees where it deems appropriate for the smooth running of the functions of the Council at the Regional Level.

(5) The Regional Council shall keep records of every meeting and prepare a comprehensive annual performance report and submit to the Steering committee of the Council, the annual report which shall include-

(a) implementation of the functions and activities of the Regional Council;
(b) implementation of the directives of the Council;
(c) income and expenditures;
(d) proposed recommendations in enhancing business development in the Region; and
(e) any other matter in the performance of the Regional Council.

(6) The source of funds of Regional Council shall be derived from the Council.

**PART SIX**

**ESTABLISHMENT OF BUSINESS FORUM**

24.-(1) There shall be a business forum of the Council which composed of:

(a) the Chairman of the Council;
(b) members of the Council;
(c) members of the Regional Council;
(d) members from Chambers;
(e) members from other business Organizations; and
(f) others business man as the Council may determine.

(2) The Council shall organize a business forum between Public and Private sector in order to strengthen Public Private Partnership dialogue.

(3) The business forum shall be organized once in every calendar year, but it may be held at any time where deems necessary.

(4) The Council may invite any person to attend the business forum.

(5) The business forum shall receive, discuss, and provide recommendations on matters presented by the Council.

**PART SEVEN**

**FINANCIAL PROVISIONS**

25.–(1) There shall be a source of funds of the Council which shall consist of-

(a) such sums as may be provided for the purpose of the Council by the House of Representatives of Zanzibar;
(b) donations and contributions from private sectors; and
(c) such sums as may in any lawful manner become payable to or vested in the Council under provisions of this Act;

(2) The financial year of the Council shall start on the first day of July of each year and end on the last day of June of the following year.
26.- (1) At least three months before the commencement of each financial year, the Executive Secretary shall prepare, annual estimates of the revenue and expenditure of the Council for the ensuing year.

(2) The Executive Secretary shall before the commencement of each financial year, submit to the Steering Committee annual estimates of the revenue and expenditure for approval.

27.- (1) The Council shall supervise the keeping of proper books of account and records through proper records of expenditure receipts.

(2) The books of account and records of the Fund shall be kept in accordance with procedures made by the Public Finance Act and its Regulations.

(3) The books of account of the Council shall be audited by Controller and Auditor General or any person authorized by him and shall be audited at least at the end of each financial year.

(4) The audited accounts and the auditor’s report on such accounts shall be submitted to the Council not later than three months after the end of the financial year to which they relate.

(5) It shall be the duty of the Executive Secretary after receipt of the report from the Auditor to submit the same to the Steering Committee.

(6) The Executive Secretary shall give the General and Auditor General all the information and facilities required to perform the auditing.

(7) The Executive Secretary shall submit an annual report on the management of the Fund in respect of that financial year, including the balance sheet of the Fund to the Steering Committee and the Minister in accordance with Public Finance Act.

(8) The financial transactions of the Council shall be conducted in accordance with the provisions of the Public Finance Act and its Regulations.

PART EIGHT
MISCELLANEOUS PROVISIONS

28. The Minister may, in consultation with the Steering Committee make Regulations for the better carrying out of provisions of this Act.

29.- (1) The Legal Notice No. 106 of 2011 is hereby repealed.

(2) Anything done or purported to have been done under the repealed Legal Notice shall be deemed to have been done under the provision of this Act.
FIRST SCHEDULE

Proceedings of meetings of the Council

[Made under section 10]

1. The Council shall meet at least once in every calendar year, but may at any time convene a meeting, where it deems necessary.

2. The quorum of the meeting of the Council shall be more than half of the members of the total members of the Council present and at least forty percent among the members must be from Public and Private sector.

3. The meeting of the Council shall be presided by the Chairman.

4. Where in the opinion of the Chairman, if a matter is of an urgent nature which cannot wait the convening of the Council meeting, that matter may be discussed and decided at Committee level.

5. The decision made under sub section (4) of this paragraph shall be valid and binding and reported to the regular meeting of the Council for consideration and approval.

6. The decision of the Council for any matter brought for deliberation shall be made by consensus.

7. The Council may invite any person to clarify any matter during the meeting, but such person is not entitled to vote.

SECOND SCHEDULE

Proceedings of the meetings of the Steering Committee

[Made under section 17]

1. The Steering Committee shall meet ordinarily at least twice in a year and may meet at extra ordinary meeting any time when the need arises for the discharge of business at such places as the Steering Committee may determine.

2. All meetings of the Steering Committee shall be presided over by the Chairperson or in his absence of the Chairperson, the Vice-Chairperson from Chamber shall preside such meeting.

3. The Members of Steering Committee shall appoint one member from Chamber to be Vice- Chairperson.

4. More than half of the total number of members from Public and Private sectors shall constitute a quorum at any meeting of the Steering Committee.

5. The Steering Committee shall make its decision by consensus of the members presented in a meeting.
THIRD SCHEDULE

Members of the Committees of the Council
[Made under section 17 (5)]

1. The types and composition of the Committees shall be as follows:

(a) Economic, Trade, Investment and Tax Committee Members

(i) The Minister responsible for Trade who shall be Chairman;
(ii) The Minister responsible for Finance;
(iii) The Minister responsible for Land;
(iv) The Minister from Second Vice President;
(v) The Principal Secretary, Ministry responsible for Trade;
(vi) The Principal Secretary Ministry responsible for Finance;
(vii) President of Zanzibar National Chamber of Commerce Industry and Agriculture;
(viii) The Chairman of Bakharesa Group of Company;
(ix) The Executive Secretary of Zanzibar Planning Commission;
(x) The Executive Director Zanzibar Investment Promotion Authority;
(xi) The Commissioner Tanzania Revenue Authority;
(xii) The Commissioner from Zanzibar Revenue Board; and
(xiii) A member from Zanzibar Freight Forwarders.

(b) Tourism Committee Member:

(i) The Minister responsible for Tourism as Chairman;
(ii) The Minister responsible for Communication and Infrastructure;
(iii) The Minister responsible for Local Government;
(iv) The Minister from Second Vice President;
(v) Principal Secretary - Ministry responsible for Land;
(vi) Principal Secretary- Ministry responsible for Tourism;
(vii) Executive Secretary-Commission for Tourism;
(viii) The Executive Director Zanzibar Investment Promotion Authority;
(ix) A member from Zanzibar Association of Tourism Investors (ZATI); and
(x) A member from Zanzibar Association of Tour Operators (ZATO),

(c) Agriculture, Livestock and Fisheries Committee Members

(i) The Minister responsible for Agriculture as Chairman;
(ii) The Minister responsible for Trade;
(iii) The Minister responsible for Land;
(iv) Principal Secretary, Ministry responsible for Agriculture;
(v) A member from Clove Growers Association;
(vi) A member from Zanzibar National Chamber of Commerce
The object of this Bill is to establish the Zanzibar National Business Council Act which will establish the Zanzibar National Business Council and provide other matter connected thereto. The Council shall be responsible to coordinate business forum between public and private sector dialogue. The proposed Bill intends to strengthen a legal framework that empower the Council to provide proper management and consider issues pertaining to business forum in a good manner. Therefore, the proposed Zanzibar National Business Council shall ensure that, the Public Private Partnership Policy is fully implemented in order to secure both government and private interest for strengthen socio-economic and business development in Zanzibar.

The Bill is also intended to eliminate unnecessary constrain in all form of business operated by businessmen in Zanzibar. In that view, it establish a legal platform to accommodate public and private sector for discussion and looking for solution in order to smooth the business and promote the welfare of the Zanzibar community in general.

The Zanzibar National Business Council will undertake its function under the directives of the chairmanship of the President of Zanzibar and other selected members of the Revolutionary Council from the Government side and other selected members from private sector. The Council shall have the Executive Secretary who shall be responsible to ensure all directives, guidelines and resolution of the Council is implemented effectively and efficiently.

In addition to that, the proposed Bill establishes the Steering Committee to be constituted by expertise from government and private sector which is accountable to the Council, such Committee is cornerstone for implementation of the functions of the Council.

Also, the Bill establishes different Committees among other, includes economic, Trade Investment and Tax Committee, Tourism Committee and other related committee to facilitate the functions of the Council. In addition, the Council is empowered to remove or add any other committee as it deems fit from time to time. The Bill recommended to establish Regional Business Council in each region which shall be chaired by the Regional Commissioner, this is taken as a modality to consider and determine issues oriented in business in the level of region. However,

Industry and Agriculture;

(vii) Head from the Zanzibar Agriculture Research Institute;

(viii) A member from Tanzania Horticultures Association- Zanzibar; and

(ix) Head from Zanzibar Poultry Association.

(d) Labour Issues Committee Members

(i) The Minister responsible for Labour as Chairman;

(ii) The Minister responsible Public services;

(iii) Principal Secretary, Ministry responsible for Labour;

(iv) Principal Secretary, Ministry responsible for Public services;

(v) A member from Contractors Association;

(vi) Commissioner of Labour;

(vii) Commissioner of Immigration Zanzibar;

(viii) A member from Zanzibar Employers Association (ZANEMA);

(ix) A member from Zanzibar Trade Union Congress (ZATUC); and

(x) Head from Vocational Training Authority.
the regional platform shall be used to ensure the Council’s resolutions are fully and correctly implemented.

In that regard, the established Regional Business Council shall indicates priorities in the National Policy related to decentralization is going to be implemented and the target of the Revolutionary Government of Zanzibar to provide quality business services to the public and remote community is reached.

The Bill is divided into six parts and each part shall contain independent themes therein.

Part One is about preliminary provisions which contains short title and commencement and interpretation of some of words used in this Bill.

Part two is about establishment, functions and composition of the Council, as mentioned in this Bill the chairman is vested power to appoint the Executive Secretary upon consider narrated qualifications therein, the Executive Secretary shall be a Executive officer of the Council and responsible to perform day to day activities of the Council, in a view to ensure the proper management the functions of the Council are achieved.

Part three is explain the establishment, functions and composition of the steering Committee, the proceeding of a meeting, decision, quorum and other matter related thereto of such Committee are taken into consideration as stipulated in the Second Schedule of this Bill.

Part Four gives detail of the established committees of the Council in order to facilitate the functions, directives and resolution of the Council are implemented effectively. Apart from proposed committees shown in this Bill, the Council is empowered to establish any other committee or remove any committee as it deems necessary.

Part five deals with establishes, functions and role of the Regional Council, the Bill intended to establish such Council in the level of each respective Region in order to link between Zanzibar National Business Council and such Regional Council, with the view to hear and determines the complaints, recommendations from the Regional, also these Regional Council helps to ensure the Zanzibar National Business Council resolution are implemented.

Part six is about the establishment of business forum, member who are composed in this forum, and functions thereto, apart from such members mentioned in this Bill, the business forum is empowered to invite any other person to attend in its meeting in order to provide expertise, skills or to respond any other question asked by such forum.

Part seven deals with financial provisions that includes fund of the Council, report of financial transactions, accounting and audit and the procedures of handling the funds as stipulated under the Public Finance Act and its Regulation.

Part eight shown miscellaneous provisions which include power of the Minister to make Regulations in order to ensure proper management of this Act, repeal and saving the Legal Notice No.106 of 2011 and end of this Bill attached with the Third Schedules thereto.

ZANZIBAR (HON. AMB. AMINA SALUM ALI)
20th April, 2017 MINISTER OF TRADE INDUSTRIES AND MARKETING