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**EXPLANATORY MEMORANDUM ON THE CAPITAL MARKETS (ALTERNATIVE
INVESTMENT FUNDS) REGULATIONS, 2023**

LEGAL NOTICE NO. 170 OF 2023

PART I

Statutory Instruments:	The Capital Markets (Alternative Investment Funds) Regulations, 2023.
Parent Act:	Capital Markets Act, Cap 485A.
Enacted Pursuant to:	Section 12 (1) (f) of the Capital Markets Act.
Name of the Ministry:	The National Treasury.
Gazetted on:	15 th December, 2023

PART II

1. Purpose of Statutory Instruments -

Alternative Investment Funds (AIF's) are Collective Investment Schemes (CIS's), which pools funds from the public to invest in 'non-traditional' asset classes. These are financial assets that do not fit into the conventional equity/income/cash categories and includes infrastructure, private equity, real estate, and commodities.

Like CISs, AIFs can either be structured as a unit trust, limited liability partnership or an investment company and are governed by a tripartite relationship between the fund manager, trustee, and custodian. They consist of pooling of funds, investing of the pooled funds and professional portfolio management to execute an investment strategy. However, unlike the CISs, the funds privately pooled and applied to a wide range of investment objectives and complex strategies. Further, AIF's are available only to sophisticated investors.

2. Legislative Context

Alternative Investment Funds are governed under section 12(1)(f) of the Capital Markets Act as they constitute collective investments by their form and nature. Accordingly, to facilitate their regulation, the section empowers the Cabinet Secretary National Treasury to issue regulations to govern the collective investment schemes ecosystem. Pursuant to this section, the Authority conceptualized the Capital Markets (Alternative Investment Funds) Regulations, 2023 to specifically provide for AIFs in Kenya.

The AIF framework presents a regulatory framework that aims to regulate the constitution and operation of AIFs in Kenya in a bid to provide for emerging issues in the capital markets investment ecosystem as well as provide for investor protection and market integrity.

2.1 The Regulations

The Capital Markets (Alternative Investment Funds) Regulations, 2023 provides for and regulates private pooling of funds from Kenyan investors for funds established in Kenya. The regulations aim to target sophisticated category of funds which, employ diverse or complex strategies e.g. investment in infrastructure, real estate, private equity or commodities.

The regulations have been divided into the following parts:

Part I on the preliminary: This part provides for the definition of key terms as shall be construed under the regulation, scope of application of the regulation and restrictions on establishment of AIFs without approval.

Part II on approval of Alternative Investment Funds: This part provides for the different structures of establishments of AIFs under the regulations and the eligibility criteria.

Part III on investment conditions and restrictions: This part provides for the investment strategy, investment in Alternative Investment Funds, the placement Memorandum, Capital Raising, tenure of the funds, general investment conditions and specific conditions for investment in asset classes.

PART IV provides for the general obligations and responsibilities and transparency.

PART V provides for the inspection procedures, submission of reports to the Authority and communication of findings.

PART VI provides for the procedure for action in case of default **and the requirements for transition**

PART VII provides for temporary exemption from operation of the regulations

PART VIII provides for miscellaneous provisions which contains the Schedules on application forms, fees and General information.

3. Consultation

The regulation was taken through a series of both internal and external consultation during the drafting phase. Internally, it underwent several reviews at internally constituted committees and at departmental levels and later discussed and approved at management and board levels of the Authority.

Externally, the framework underwent a 30-day stakeholders' participation from August 24th to September 24, 2021, plus an additional 14 days to allow for further stakeholder input, in compliance with Article 10 of the Constitution and the Statutory Instruments Act. Targeted stakeholders were also consulted during this period to ensure alignment of the regulations with market practice by industry players.

In addition to the public participation exercise, a Regulatory Impact Assessment Statement on the draft regulations was published in both the Kenya Gazette and newspapers of national circulation for a period of 14 days in compliance with the Statutory Instruments Act.

The Comments received were reviewed and considered in the refinement of framework before submission for the gazette process.

4. Impact

4.1 The Impact on Fundamental Rights and Freedoms

The regulation neither has a direct impact nor negatively affects the fundamental rights and freedoms under the Constitution. Contextually, the regulation upholds the right to a fair administrative action, the fair treatment of all parties therein by balancing their rights versus obligations and preserves Kenya's capital markets integrity by promoting transparency and accountability in the collective investment schemes ecosystem.

The spirit of the framework also emphasizes on consumer rights by ensuring that investors are well informed of all the details of their choice of investments before and after committing.

4.2 Economic impact on the Private Sector

The regulation requires the licensing of entities seeking to operate as alternative investment funds and payment of a licensing, annual regulatory renewal fee and a transaction fee as provided therein. Although this may be seen as an increase in the cost of doing business, the fees are however necessary in the light of their different capacities and are meant motivate legal compliance, enable the Authority to expand its supervision capacity, fund investor education, market development and industry capacity.

4.1 Economic impact on the Public Sector

The regulation allows the parties licensed to operate within the CIS industry to charge fees to clients. This appreciates the economic role played by these parties who are also in business and will also enable them offer quality services to consumers.

To balance out this right versus that of the public, the regulation requires disclosure of such and related fees and additional disclosures on the prospective issues to enable the investing public exercise their right to discretion from an informed perspective.

4.3 Impact Assessment

The regulation promotes market integrity by balancing the rights of both the investors and the industry players.

5. Monitoring and review

Upon gazettelement, implementation of the regulation will be done through the approval and supervision processes. The framework requires the licensing of various parties as highlighted in this memorandum, approval of the schemes, disclosures, and inspection of the licensed players to ascertain their compliance to the framework and other applicable laws.

6. Contact

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EXPLANATORY MEMORANDUM ON THE CAPITAL MARKETS (CREDIT RATING AGENCIES) REGULATIONS, 2023

LEGAL NOTICE NO. 171 OF 2023

PART I

Statutory Instrument	: Capital Markets (Credit Rating Agencies) Regulations, 2023
Parent Act	: Capital Markets Act, Cap 485A.
Enacted Pursuant to	: Sections 12 (1) (h) of the Capital Markets Act.
Name of Ministry	: The National Treasury.
Gazetted on	: 15th December, 2023

1. Purpose of the Statutory Instrument

Credit rating is an objective and independent opinion on the general creditworthiness of an issuer of a debt instrument, and its ability to meet its obligations in a timely manner over the life of the financial instrument based on relevant risk factors including the ability of the issuer to generate cash in the future. Credit Rating Agencies are organizations which provide the services of evaluating the relevant creditworthiness of issuers of securities and assigns ratings to such securities.

The general aim of the regulations is to improve on the Capital Markets Credit Rating Agencies Guidelines 2001 on credit rating processes and registration and recognition of credit rating agencies. The purpose of the Capital Markets (Credit Rating Agencies) Regulations, 2023, is to provide for oversight of the domestic registered and foreign licensed credit rating agencies by the Capital Markets Authority so that they can conduct rating activities in Kenya.

The regulations shall be applicable to credit rating agencies registered in Kenya and foreign registered agencies that will be seeking recognition in order to conduct a rating in Kenya.

Additionally, the regulation will clarify issues to do with requirements for approval of domestic and foreign credit rating agencies, their obligations, inspection and investigation by the Capital Markets Authority.

2. Legislative Context

The Capital Markets (Credit Rating Agencies) Regulations, 2023 are proposed by the Capital Markets Authority pursuant to Section 12 (1) (h) of the Capital Markets Act which stipulates that the Cabinet Secretary shall formulate such rules and regulations as may be required to regulate credit rating agencies. There exists the Capital Markets Credit Rating Agencies

Guidelines 2001, which have been effected with regard to all applications for registration of credit rating agencies by the Authority. The review of the Guidelines is in compliance with the Statutory Instruments Act.

The Regulations are divided into the following parts:-

Part I – of the Regulations contains preliminary provisions which are the short title and the definition and interpretation of various terms used in the Regulations.

Part II – of the Regulations provides for the approval of credit rating agencies. This includes the eligibility criteria for approval, recognition of the foreign registered credit rating agencies, required documentation for the purposes of processing the application for registration or recognition to operate as a credit rating agency.

Part III- of the Regulations provides for the general obligations of credit rating agencies on notification of changes on the business, conflict of interest, requirement for a written agreement with clients, the rating methodology, the monitoring of ratings, the procedure for review of rating, internal procedures, the disclosure of rating definitions and rationale. The part also contains provisions on submission of information to the Authority, maintenance of books of accounts, the annual reports, confidentiality and the restriction on rating of securities issued by a rating agency, its associate or subsidiary.

Part IV- of the Regulations provides for the rights to inspection and investigation of the books of accounts, records and documents of the credit rating agency and the obligations of the credit rating agencies.

First Schedule – The First Schedule provides for a prescribed Application form for a license to operate as a credit rating agency.

Second Schedule –Provides for the Capital Markets Authority fee structure for credit rating agencies.

3. Consultation

The Authority published a public notice in the daily newspapers requesting for comments from stakeholders and the general public on August 16, 2022. The comments received were reviewed and considered in the refinement of the Regulations. The validation meeting on the draft Credit Rating Agencies Regulations was held on December 01, 2022. The public notice and the stakeholder engagement matrix are attached hereto.

4. Impact

Impact Assessment

The regulations seek to transform the credit rating agencies services and the capital markets in general through an established credit rating framework that will allow oversight of credit rating agencies conducting ratings in Kenya by the Capital Markets Authority. This will impact the capital markets players such as issuers, investors, shareholders and credit rating agencies.

i. Issuers

The framework will impact issuers positively due to reduced rating costs, in the long run as well as improved corporate governance practices. CRAs oversight will provide a platform for more rating agencies to be established in Kenya. An increased number of rating agencies is expected to exert downward pressure on the rating cost, therefore, allowing more issuers to access the rating services thus attracting more investors.

ii. Investors/Shareholders

The impact on investors will be positive due to improved transparency on the financial and operational environment of issuers and related securities, as well as providing information asymmetry provided by the credit rating agencies with objective and expert opinions.

iii. Credit rating agencies

The CRA's will benefit from improved rating methodologies and corporate governance. Due to the increased number of rating agencies, there will be a general improvement in the CRA's capacities and hence be able to reduce overheads as they enhance the adoption of technology.

iv. Monitoring and Review

The Implementation of the Capital Markets (Credit Rating Agencies) Regulations will be conducted through periodic inspections conducted by the Capital Markets Authority on licensed or recognized credit rating agencies. In addition, Credit rating agencies will be required to file their ratings and review of ratings with the Capital Markets Authority.

v. Contact

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**EXPLANATORY MEMORANDUM ON THE CAPITAL MARKETS (PUBLIC OFFERS,
LISTINGS AND DISCLOSURES) REGULATIONS, 2023**

LEGAL NOTICE NO. 172 OF 2023

PART I

Statutory Instruments: The Capital Markets (Public offers, Listings and Disclosures) Regulations, 2023

Parent Act : Capital Markets Act, Cap 485A.

Enacted Pursuant to : Section 12 (1) of the Capital Markets Act.

Name of the Ministry: The National Treasury.

Gazetted on : 15th December, 2023

PART II

1. Purpose of Statutory Instruments -

In line with the Capital Markets Authority mandate, the Authority is committed to developing facilitative regulatory frameworks that encourage investment with domestic and international investors.

The purpose of the regulations are:-

2. To address concerns on high costs of public offering, listing and continuous compliance with listing obligations.
3. To provide regulatory clarity and flexibility to issuers.
4. To align the Public Offers Listing and Disclosures (POLD) framework with other regulations for example the Capital Markets Act, the Licensing Regulations, the Share Buyback Guidelines and provisions on the Recovery Board framework etc.
5. To provide for harmonization and alignment with international practices.
6. To provide for innovation by market players.
7. To introduce a small and medium enterprise market segment for SME's wishing to raise capital through the Capital Markets.

8. To consider incorporation of new market trends for example, Special Purpose Acquisition Companies -SPAC, Initial Public Offerings-IPOs, and listings.
9. To ensure that regulations take into consideration efficiency gains resulting from adoption of technological options for issuers in areas such as reporting as well as issuance of securities.

2. Legislative Context

2.1 The Regulations

The Capital Markets (Public offers, Listings and Disclosures) Regulations, 2023 are made pursuant to Section 12 (1) of the Capital Markets Act which empowers the Cabinet Secretary to issue regulations to inter alia regulate listing and de-listing of securities on a securities exchange, the issue, transfer, clearing and settlement of securities and the disclosure requirements and other terms and conditions on which securities or exchange-traded derivatives contracts may be listed or de-listed from a securities exchange or a derivatives exchange, respectively, or offered for sale to the public or a section thereof.

The Regulations are divided into the following parts: -

PART I— Contains preliminary provisions which are the short title, application and the interpretation of various terms used in the Regulations.

PART II—Provides for the guiding principles and purpose of these regulations including establishing fair, efficient and transparent capital markets and elimination and minimization of challenges and disadvantages of listing.

PART III—Provides for the approval of offers of securities and listing. it states that the Capital Markets Authority shall be the competent authority to approve any offers of securities to the public in Kenya. it also provides for the information to be included in the official list of listed securities to be maintained by a securities exchange.

PART IV— Provides for public offers, restricted public offers, eligibility, disclosure and general requirements for public offers. it gives the meaning of a public offer therefore giving clarity on

what constitutes a public offer, it also contains provisions on issue by national and county governments and the provisions of issuers not seeking to list their securities at an approved exchange.

PART V— Provides for private offers and gives the conditions under which an offer shall be considered to be a private offer.

PART VI— Provides the requirements for publishing information memorandum, short form prospectus and information notice. it also provides for the contents to be included in an information memorandum, requirement for the information memorandum to be signed, provisions on electronic offers and the requirement to issue a supplementary information memorandum in case there is a significant change in the matters contained in an information memorandum.

it also requires the issue of an information notice in the case of a private offer and lists the persons responsible for the authenticity of the contents of the offer documents in an offer as the directors and the CEO of the issuer.

PART VII—Provides for the requirement for the issuer to consult transaction advisors and public offers compliance officers and states the responsibilities of both parties.

PART VIII—Provides for underwriting and valuation of securities and requires the disclosure of an underwritten offer in the offer documents. It also introduces the requirement of using the valuation mechanism in accordance with International Valuation Standards.

PART IX—Provides for the green shoe option and gives the conditions that are to be satisfied before the option is approved.

PART X—Provides for shelf prospectus and the conditions to be satisfied for the submission of the same.

PART XI—Provides for Special Purpose Acquisition Vehicles and introduces the requirement for the SPV to be a body corporate. It also contains provisions on escrow requirements for SPV's.

PART XII—Provides for share buybacks for listed companies and states that a listed company that intends to buy back its shares shall comply in full with the provisions of the Companies Act, 2015, Capital Markets Act and the Regulations.

PART XIII— Provides for trading halt, suspension and delisting provisions and states that a securities exchange may, at any time, with the approval of the Authority, grant a trading halt or suspend trading of the listed securities of an issuer. It also states the grounds upon which a security may be suspended from trading and grounds for delisting of a security including the issuer of such securities has been placed under statutory management, receivership or liquidation or voluntary winding up among others.

PART XIV— Provides for public announcements, circulars and electronic communication. It requires prior approval by the Authority of any circular, announcement or electronic communication and provides for the contents of circulars.

PART XV—Provides for transactions of listed securities outside a securities exchange. It describes the nature of such a transaction, addresses the issue of brokerage commissions in private transfers, provides for the submission process of such transactions and other requirements.

PART XVI—Provides for continuing obligations and requires each issuer whose securities have been offered to the public, including special purpose acquisition vehicles, and listed on any market segment to comply with the continuing obligations specified in the Thirteenth Schedule.

PART XVII—Provides for listing fees and other charges for issuers of securities as stated in the seventh schedule.

PART XVIII—Provides for repeal and transitional provisions. It revokes The Capital Markets (Securities) (Public Offers, Listings and Disclosures) Regulations, 2002.

SCHEDULES

First Schedule—Eligibility Requirements for Public Offering and Listing of Equities In The Main Investment Market Segment And The SME Market Segment.

Second Schedule—Eligibility Requirements for Public Offering of Fixed Income Securities and Listing On The Main Fixed Income Securities Market Segment.

Third Schedule—Eligibility Requirements for Public Offering of Fixed Income Securities And Listing On The SME Fixed Income Securities Market Segment (SME FISMS).

Fourth Schedule—Requirements for Issuance of Regional Fixed Income.

Fifth Schedule—Eligibility and Other Requirements for Issuance Of Green Bonds.

Sixth Schedule—Main Investment Market Segment Disclosure Requirements For Public Offerings.

Seventh Schedule—Disclosure Requirements For Listing By Introduction In The Main Investment Market Segment.

Eighth Schedule—SME Market Segment Disclosure Requirements For Public Offers And Listing.

Ninth Schedule—SME Market Segment Disclosure Requirements (Listing By Introduction).

Tenth Schedule—Main Fixed Income Securities Market Segment Disclosure Requirements For Public Issues.

Eleventh Schedule—SME Fixed Income Securities Market Segment Disclosure Requirements For Public Issues (Listed And Unlisted).

Twelfth Schedule—Disclosure and Other Requirements for Additional Issues (Rights, Scrip Dividend, Capitalization Issues And Open Offers).

Thirteenth Schedule—Continuing Obligations.

Fourteenth Schedule—Short Form Prospectus for A Restricted Public Offer.

Fifteenth Schedule—Information Notice.

Sixteenth Schedule—Requirements for Offer of Securities Using A Book Building Process.

Seventeenth Schedule—Approval and Listing Fees.

3. Consultation

The regulation was taken through a series of both internal and external consultation during the drafting phase. Internally, it underwent several reviews at internally constituted committees and at departmental levels and later discussed and approved at management and board levels.

The regulations were exposed for public participation on the CMA website for 30 days during the period May 03 to June 03, 2022. This was in accordance with Article 10 of the Constitution of Kenya, the Capital Markets Act and the Statutory Instruments Act. Comments received from the public and stakeholders were incorporated in the Regulations. A validation workshop was held on June 14, 2022 in Nairobi and stakeholders were taken through the amended draft.

The Comments received were reviewed and considered in the refinement of framework before submission for the gazettelement process.

4. Impact

4.1 The Impact on Fundamental Rights and Freedoms

The regulation neither has a direct impact nor negatively affects the fundamental rights and freedoms under the Constitution. Contextually, the regulation upholds fair treatment of all parties and promotes the rights to access information. The framework also emphasizes on consumer rights

by ensuring that investors are well informed of all the details of their choice of investments before and after investment to ensure that they have the ability to make informed choices.

4.2 Economic impact on the Private Sector

For issuers, improved corporate governance practices for publicly listed companies will enhance domestic, retail and institutional investors' confidence in the capital markets thus enabling companies to raise capital successfully. The impact on investors will be positive due to improved transparency through full and accurate disclosure of material information by issuers at both the time of issue and as part of their continuing obligations. Both retail and institutional investors will in turn have confidence in investing in issuers of securities to the public thus realizing a return on investment.

4.3 Economic impact on the Public Sector

The public offers regulatory framework intends to create a vibrant, competitive, and efficient capital markets. As a result, the developed policy will play a pivotal role in the growth of not only the capital markets but also high economic productivity.

4.4 Impact Assessment

Considering the above, the proposed regulations will play a pivotal role in the realizations of economic growth as envisioned under Bottom-Up Economic Transformation Agenda and vision 2030.

5. Monitoring and review

Upon gazettelement, implementation of the regulation will be done through the approval and supervision processes. The framework requires regular reporting by issuers and disclosures to investors.

6. Contact

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**EXPLANATORY MEMORANDUM ON THE CAPITAL MARKETS (COLLECTIVE
INVESTMENT SCHEMES) REGULATIONS, 2023**

LEGAL NOTICE NO. 173 OF 2023

PART I

Statutory Instruments:	The Capital Markets (Collective Investment Schemes) Regulations, 2023
Parent Act:	Capital Markets Act, Cap 485A.
Enacted Pursuant to:	Section 12 (1) (f) of the Capital Markets Act.
Name of the Ministry:	The National Treasury.
Gazetted on:	15 th December, 2023

PART II

1. Purpose of Statutory Instruments -

A Collective Investment Scheme ("CIS") is defined under the Capital Markets Act, CAP 485A as read with the proposed Capital Markets (Collective Investment Schemes) Regulations, 2023. The definition denotes that CISs are publicly pooled funds collected by a licensed entity from investors, mostly retail investors to be invested in a range of investment assets classes such as bonds, equities and cash equivalents as packed under the money market funds, equity funds, balanced funds, fixed income funds and special funds prescribed by the governing law.

CISs can either be structured as a unit trust, limited liability partnership or an investment company and are governed by a tripartite relationship between the fund manager, trustee, and custodian. Whatever its legal form, a CIS generally consists of: - pooling of funds, investing of the pooled funds and professional portfolio management to execute an investment strategy.

2. Legislative Context

Collective Investment Schemes are governed under section 12(1)(f) of the Capital Markets Act. To facilitate their regulation, the section empowers the Cabinet Secretary National Treasury to issue regulation to regulate the collective investment schemes ecosystem. Pursuant to this section, the Authority developed the Capital Markets (Collective Investment Schemes) Regulations, 2023 to provide for the CISs in Kenya.

The framework aims to align the current collective investment schemes ecosystem to current market practice and the new dynamics in the CIS operating environment and address emerging issues that have an underpinning on investor protection and market integrity.

Some of the issues addressed under the draft framework include, the legal form and structure of the CISs, eligibility and oversight of the custodian and the trustee, disclosures, asset valuation, pricing and redemption, innovation and technology, reporting obligations, advertising, investment limits and the applicability of the International Financial Reporting Standards.

2.1 The Regulations

The Collective Investment Schemes framework provide for and regulate the public pooling of funds from investors in Kenya to invest in either the money market, balanced, equity, bond or special funds. To achieve its purpose, the regulations expressly prohibit public pooling of funds without approval under regulation 3 and 4 to ensure proper standardization of this sector. The regulations further provide for the investment aspects by providing for how the funds are to be invested under part VIII and reporting obligations under part XI.

The regulations also extensively provide for the key players in the CIS industry i.e., the fund manager, custodian, trustee, and the intermediary service platform provider. It provides a new license category for the trustee, custodian and the intermediary service platform provider. The license criteria for the fund manager shall be as is under the Licensing General Regulations.

The framework is divided into the following parts:

Part I on the preliminary: This part provides for the definition of key terms as shall be construed under the regulation, scope of application of the regulations and restrictions on establishment of CIS's without approval.

Part II on establishment of schemes: This part provides for the different structures of establishments of CIS's under the regulations.

Part III on approval of schemes: This part provides for the process of approval of CISs, criteria for approval, documentation, and applicable fees and reference to the Conduct of Business Regulations.

Part IV on offer documents: This part provides for the different scheme documents i.e., the information memorandum, key investor information document, public availability of scheme documents and the applicable restrictions

Part V on management of collective investment schemes: This part provides for the eligibility criteria of the trustee custodian and the intermediary service platform. The part also provides for the general duties and obligations for the fund manager, trustee, custodian.

Part VI on pricing and dealing: This part highlights on allocation, modification and cancellation of participatory interests, fund manager's obligation to issue and redeem and the issue price as well as the Instructions by fund manager to the trustee and custodian

Part VII on valuation: This part provides for the valuation of assets of the scheme.

PART VIII on investment powers: This part provides for the composition of the different funds and its investment limits.

PART IX on the register, title, and transfer: This part provides for the register as the evidence of title, transfer of participatory interests by either act of the parties or operation of the law, change of name and address of participant, subdivision and consolidation of participatory interests and default by participants.

PART X on charges, expenses, payments and benefits to fund manager and trustee or custodian provides for the charges, remuneration of the trustee or custodian and reimbursement of expenses and other payments to be paid out of the property of the scheme.

PART XI provides for performance and measurement reporting for the scheme.

PART XII provides for meetings and modifications.

PART XIII provides for suspension and termination of CISs, the resumption of issue and redemption of participatory interests, winding up of a scheme, manner of winding up and accounting and reports during winding up.

PART XIV provides for the manner of advertisements and public announcements.

PART XV provides for service of notices and documents, transition, and revocations and the applicable schedules

3. Consultation

The regulation was taken through a series of both internal and external consultations during the drafting phase. Internally, it underwent several reviews at internally constituted committees and at departmental levels and later discussed and approved at management and board levels.

Externally, the framework underwent a 30-day stakeholders' participation from August 24th to September 24, 2021, plus an additional 14 days to allow for more stakeholder input, in compliance with article 10 of the Constitution and the Statutory Instruments Act. Targeted stakeholders were also consulted during this period to ensure alignment of the regulations with market practice by industry players.

In addition to the public participation exercise, a Regulatory Impact Assessment Statement on the regulations was published in both the Kenya Gazette and newspaper of national wide circulation for a period of 14 days in compliance with the Statutory Instruments Act.

The Comments received were reviewed and considered in the refinement of framework before submission for the gazettment process.

4. Impact

4.1 The Impact on Fundamental Rights and Freedoms

The regulation neither has a direct impact nor negatively affects the fundamental rights and freedoms under the Constitution. Contextually, the regulation upholds the right to a fair administrative action, the fair treatment of all parties therein by balancing their rights versus obligations and preserves Kenya's capital markets integrity by promoting transparency and accountability in the collective investment schemes ecosystem. The framework also emphasis on consumer rights by ensuring that investors are well informed of all the details of their choice of investments before and after committing.

4.2 Economic impact on the Private Sector

The regulation requires the licensing of entities seeking to operate as trustees, custodians or intermediary service platform providers and payment of a licensing, annual regulatory renewal fee and a transaction fee as provided thereunder. Although this may be seen as an increase in the cost of doing business, the fees are necessary in the light of their different capacities and are meant motivate legal compliance, enable the Authority to expand its supervision capacity, fund investor education, market development and industry capacity.

4.1 Economic impact on the Public Sector

The regulation allows the parties licensed to operate within the CIS industry to charge fees to clients. This appreciates the economic role played by these parties who are also in business and will also enable them offer quality services to consumers.

To balance out this right versus that of the public, the regulation requires disclosure of such and related fees and additional disclosures on the prospective issues to enable the investing public exercise their right to discretion from an informed perspective.

4.3 Impact Assessment

Considering the above, it can be concluded that the regulation aims to promote market integrity by balancing the rights of both the investors and the industry players.

5. Monitoring and review

Upon gazettment, implementation of the regulation will be done through the approval and supervision processes. The framework requires the licensing of various parties as highlighted in this memorandum, approval of the schemes, disclosures, and inspection of the licensed players to ascertain their compliance to the framework and other applicable laws.

6. Contact

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LEGAL NOTICE NO. 170

**THE CAPITAL MARKETS ACT
(Cap. 485A)**

**THE CAPITAL MARKETS (ALTERNATIVE INVESTMENT
FUNDS) REGULATIONS, 2023**

ARRANGEMENT OF REGULATIONS

Regulation

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THE CAPITAL MARKETS ACT

(Cap. 485A)

IN EXERCISE of the powers conferred by Section 12(1)(f) of the Capital Markets Act, the Cabinet Secretary for the National Treasury and Economic Planning makes the following Regulations—

THE CAPITAL MARKETS (ALTERNATIVE INVESTMENT FUNDS) REGULATIONS, 2023

PART I—PRELIMINARY

1. These Regulations may be cited as the Capital Markets (Alternative Investment Funds) Regulations, 2023. Citation

2. In these Regulations, unless the context otherwise requires— Interpretation

“alternative investment fund” means a collective investment scheme that privately pools funds from at least two but not more than one hundred investors in Kenya or outside Kenya to invest on the investor’s behalf in accordance with a defined investment policy statement;

“change in control” means change in the controlling interest or change in legal form in relation to a fund manager;

“final account” means an account of the winding up approved by the board of directors, partners or trustees showing how the fund manager has conducted the affairs of the scheme and how the scheme property has been disposed of;

“formation document” means—

- (a) a memorandum and articles of incorporation for the constitution of an alternative investment fund as an investment company;
- (b) a trust deed and supplemental deed for the constitution of an alternative investment fund as a trust;
- (c) in relation to an alternative investment fund constituted as a limited liability partnership, a partnership deed and any other supplementary deed; and
- (d) in relation to any other alternative investment fund, such documents as may be prescribed by the Authority;

“investee company” means an enterprise, company, special purpose vehicle, limited liability partnership or body corporate in which an alternative investment fund may invest;

“leverage” means any method by which a fund manager increases the exposure of the scheme it manages through borrowing of cash or securities, or by any other means;

“participant” means the holder of a participatory interest;

“participatory interest” means any interest or share, undivided or otherwise, whether called a participatory interest, share, unit or by any other name, and whether the value of such interest, unit or share

remains constant or varies from time to time, which may be acquired by an investor in a portfolio; and

“placement memorandum” means the information document used for the purpose of the private placement of participatory interests in an alternative investment fund.

PART II—APPROVAL OF ALTERNATIVE INVESTMENT FUNDS

3. (1) A person seeking to operate an alternative investment fund shall apply to the Authority for approval to operate an alternative investment fund.

Requirements for approval

(2) No entity or person shall operate or hold itself out as an alternative investment fund unless it has applied for and obtained approval from the Authority.

(3) A fund manager shall seek approval to operate an alternative investment fund which can be any of the following—

- (a) a debt fund and debt-linked fund;
- (b) an equity and equity-linked investment;
- (c) a hedge fund;
- (d) a property fund;
- (e) an infrastructure fund; or
- (f) any other alternative investment fund.

(4) An application for approval to operate an alternative investment fund shall be in the form specified in the First Schedule and be accompanied by a non-refundable application fee specified in the Third Schedule.

(5) The fund manager shall be required to pay an annual regulatory fee as specified out in the Third schedule.

4. (1) The Authority shall consider the following conditions for eligibility of grant of approval—

Eligibility criteria.

- (a) the formation documents which—
 - (i) shall conform with the Second Schedule;
 - (ii) shall not include any provision which is unfairly prejudicial to the interests of participants; and
 - (iii) shall demonstrate its authority or power to carry on the activity of an alternative investment fund;
- (b) an alternative investment fund shall not make an invitation to the public to subscribe to its securities;
- (c) the directors, trustees or partners of the applicant, or their equivalent, are fit and proper persons as provided under the Act;
- (d) the key investment team of the fund manager has adequate experience, with at least one key person having not less than five years' experience in—

- (i) advising or managing pools of capital;
 - (ii) fund, asset, wealth or portfolio management;
 - (iii) the business of buying of, selling of and dealing in securities or other financial assets; and
 - (iv) has relevant professional qualifications;
 - (c) the fund manager has the necessary infrastructure and human resources to effectively discharge its activities;
 - (f) the fund manager has, on behalf of the alternative investment fund, clearly described at the time of approval—
 - (i) the investment objective;
 - (ii) the targeted investor;
 - (iii) the proposed scheme assets;
 - (iv) the investment policy or strategy; and
 - (v) the proposed tenure of the alternative investment fund; and
 - (g) the entity or any other entity established by the fund manager has not previously been denied approval by the Authority.
 - (2) The following arrangements shall not be considered as alternative investment funds for the purposes of these Regulations—
 - (a) a family trusts;
 - (b) an employee participation scheme or employee savings scheme;
 - (c) holding company; or
 - (d) a securitisation special purpose vehicle; and where the pooling is by members of a club or association, whether or not incorporated, and the members can reasonably be regarded as having a common interest with each other and with the club or association in the affairs of the club or association and in what is to be done with the proceeds of the offer;
5. (1) The Authority may require the applicant to furnish further information or clarifications regarding the fund manager or nature of the alternative investment fund or fund management activities or any other matter connected therewith to the application for grant of approval.
- (2) The Authority may require the applicant or fund manager to appear before the Authority to make representations in respect of the application.
6. (1) The Authority shall grant approval to operate an alternative investment fund where the fund manager and the fund fulfil the requirements as specified in these Regulations and any other requirement specified by the Authority.

Purnishing of
information

Approval to
operate a fund

(2) The approval may be granted with such conditions as may be deemed appropriate by the Authority.

(3) A fund manager may after submitting an application for approval accept commitments from participants but shall not accept any monies until it is granted approval under sub-regulation (1) of this Regulation.

(4) The approval shall be valid unless its revoked as per these regulations.

7. (1) The Approval granted under regulation 7 shall be subject to the conditions that the fund manager and the fund shall—

Conditions for
grant of approval

- (a) abide by the provisions of the Act and these Regulations;
- (b) not carry on any activity other than permitted activities;
- (c) immediately inform the Authority in writing, if any information or particulars previously submitted to the Authority are found to be incomplete in any material particular or if there is any material change in the information already submitted.

(2) An alternative investment fund which has been approved shall not amend its investment policy statement except with the approval of the Authority and its participants.

8. (1) If after considering an application made under Regulation 4, the Authority is of the opinion that an approval should not be granted, it may reject the application after giving the applicant an opportunity to be heard.

Procedure where
approval is
denied.

(2) If the Authority, after hearing the applicant, refuses to grant an approval, it shall communicate the decision to the applicant within fourteen (14) days of the decision, stating the grounds for refusal.

(3) Where an application is rejected by the Authority under sub-regulation (2), the applicant shall ensure that the fund ceases or does not commence any activities for which a fund is required to be approved in terms of these Regulations:

Provided that nothing contained in these Regulations shall affect the liability of the applicant and the fund, where applicable, towards its existing investors under law or agreement.

(4) An applicant aggrieved by the decision of the Authority may appeal against such refusal to the Capital Markets Tribunal within fifteen (15) days of communication of the decision.

9. The Authority shall withdraw its approval to operate a fund, where the fund—

Withdrawal of
approval

- (a) expressly renounces its approval;
- (b) ceases to conduct its activities for a period of six months;
- (c) obtained the Authority's approval through making false statements or any irregular means; or

- (d) no longer meets the conditions under which the approval was granted.

10. A fund manager shall cease to operate an approved fund after obtaining a resolution of the unitholders approving cessation of the fund and issuing the Authority a thirty days' notice in writing and on compliance with any terms and conditions that the Authority may impose to ensure orderly cessation of business.

Cessation

PART III—INVESTMENT CONDITIONS

11. The fund manager shall ensure that—

Investment
strategy

- (a) for each fund it manages, the fund states its investment strategy, investment purpose and investment methodology in its placement memorandum to the investors;
- (b) any material alteration to the alternative investment funds' strategy shall be made with the consent of at least two-thirds of the holders of participatory interests by value of their investment in the alternative investment fund.

12. Investment in all asset classes shall be subject to the following investment conditions—

Investment in a
fund

- (a) the fund may pool funds from any investor wherever resident by way of issue of participatory interests;
- (b) the fund shall not accept from a participant, an initial investment of less than one million Kenya shillings and the participant must maintain the minimum investment in book value throughout the duration of their investment in the fund;
- (c) the fund manager, may have a continuing interest in the fund and such interest shall not be through the waiver of management fees;
- (d) the fund manager shall disclose its investment or lack thereof in the fund to the participants of the fund in the placement memorandum and such quarterly and annual reports as may be required;
- (e) a fund shall not have more than one hundred participants:

Provided that the provisions of any other legislation governing the structure of the fund shall apply to the fund;

- (f) a fund shall not solicit or collect funds except by way of private placement.

13. (1) A fund manager may pool capital from investors subject to submitting its placement memorandum to the Authority for approval.

Placement
memorandum

- (2) The placement memorandum shall contain—

- (a) all material information about the fund and the fund manager;
- (b) background of the key investment team of the fund manager;

- (c) targeted investors;
- (d) fees and all other expenses proposed to be charged in the duration of the alternative investment fund;
- (e) a statement that the directors, trustees or partners are liable for the correctness of the statements contained therein;
- (f) conditions or limits on redemption;
- (g) disclosure of all related fees and charges;
- (h) investment strategy;
- (i) risk management framework;
- (j) key service providers;
- (k) conflict of interest and procedures to identify and address them;
- (l) its enforcement history;
- (m) the terms and conditions on which the fund manager offers investment services;
- (n) its affiliations with other intermediaries;
- (o) its dispute resolution mechanisms;
- (p) manner of winding up of the fund; and
- (q) such other information as may be necessary for an investor to make an informed decision.

(3) The application for approval shall be subject to such fees as specified in the Third Schedule.

(4) The Authority shall approve the placement memorandum subject to incorporation of the Authority's comments.

(5) The Authority may by notice in writing, require the fund manager to furnish to it, within such period as is specified in the notice, all such information with respect to itself or the alternative investment fund as is specified in the notice.

14. (1) The tenure of the fund shall be as provided in the formation documents. Tenure

(2) Extension of the tenure of the fund may be permitted subject to approval of two-thirds of the participants by number and value of their investment in the fund.

(3) In the event there is no approval of an extension by the participants, the fund shall fully liquidate within one year following expiration of the stated tenure or extended duration thereof.

(4) The Authority may extend the duration for liquidating the fund under sub-regulation (3) upon request by the fund manager.

PART IV—GENERAL OBLIGATIONS, RESPONSIBILITIES AND
TRANSPARENCY

15. (1) A fund manager shall—

General
obligations

- (a) develop and review policies and procedures and their implementation on a regular basis or as a result of business developments to ensure their continued appropriateness;
- (b) appoint a custodian licensed by the Authority for the safekeeping of the assets of the scheme;
- (c) ensure that the fund complies with its duties and obligations under the Act and these Regulations;
- (d) address all participants complaints;
- (e) provide the Authority with any information it may require.

(2) The fund manager may engage such technical experts as are reasonably required for the purposes of the fund and pay for the same out of the resources of the fund.

16. The fund manager shall appoint an auditor in good standing with the Institute of Certified Public Accountants of Kenya and shall cause the books of accounts of the fund to be audited annually by the appointed auditor.

Audit

17. (1) The fund manager shall act in a fiduciary capacity towards its participants and shall disclose to the participants, all conflicts of interests as and when they arise or seem likely to arise.

Conflict of
interest

(2) The fund manager shall establish and implement written policies and procedures to identify, monitor and appropriately mitigate conflicts of interest throughout the scope of business

(3) The fund manager shall avoid conflicts of interest with associated persons, as may be specified by the Authority from time to time.

18. (1) The fund manager shall ensure that there is transparency and disclosure of information to investors on all funds it manages, including the following—

Transparency

- (a) financial, risk management, operational, portfolio, and transactional information regarding fund investments on a quarterly basis;
- (b) any fees ascribed to the fund manager and any fees charged to the fund or any investee company by an associate of the fund manager on a quarterly basis;
- (c) any inquiries or legal actions by legal or regulatory bodies in Kenya on a quarterly basis;
- (d) any material liability arising during the funds duration or tenure shall be disclosed, as and when occurred;
- (e) any breach of a provision of the placement memorandum or agreement made with a participant or any other scheme or incorporation documents, if any, as and when occurred;

(f) change in control of the fund manager or investee company.

(2) The fund manager shall ensure that quarterly reports are provided to participants which shall include the following information, as may be applicable to the fund—

- (a) financial information of investee companies;
- (b) material risks and how they are managed which, may include—
 - (i) concentration risk at fund level;
 - (ii) foreign exchange risk at fund level;
 - (iii) leverage risk at fund and investee company levels;
 - (iv) realization risk (change in exit environment) at fund and investee company levels;
 - (v) strategy risk (change in or divergence from business strategy) at investee company level;
 - (vi) reputation risk at investee company level;
 - (vii) extra-financial risks, including environmental, social and corporate governance risks, at fund and investee company level;
 - (viii) any significant change in the key investment team; and information on systemic risk (including the identification, analysis and mitigation of systemic risks); and
 - (ix) any other emerging risks.

19. A fund manager shall—

Valuation

- (a) have a valuation policy, procedures and methodology for valuing assets including discount rates and reference prices where applicable;
- (b) notify the Authority and the participants of any changes to the valuation policy;
- (c) ensure that the calculation of the net asset value is done at least quarterly and disclosed to the Authority and the participants;
- (d) appoint an independent valuer to undertake valuations of the fund's investments at least annually;
- (e) submit the valuation report to the Authority and disclose the report to the participants.

20. (1) The fund manager shall maintain records describing—

Maintenance and transfer of record

- (a) the assets under management of the fund;
- (b) valuation policies and practices;

- (c) decisions of the investments committee and investment strategies;
- (d) particulars of participants and their contribution;
- (e) rationale for investments made.

(2) The records under sub-regulation (1) shall be maintained for a minimum period of seven years after the winding up of the fund.

(3) The Authority may, in the interest of the investors, issue directions with regard to the transfer of records, documents or securities or disposal of investments relating to the activities as an alternative investment fund.

(4) The Authority may, in order to protect the interests of the participants, appoint any person to take charge of records, documents, securities and for this purpose, also determine the terms and conditions of such an appointment.

21. The Authority may from time to time require the fund manager to submit reports on the activities of the fund.

Submission of
report to the
Authority

22. (1) A fund manager may resign by giving a three months' notice to the board of directors, partners or trustee of the fund and to the Authority stating the reasons for the resignation.

Resignation of
fund manager

(2) The board of directors, partners or trustee shall upon receipt of the notice of resignation by the fund manager in sub regulation (1) find a replacement within the notice period.

(3) The board of directors, partners or trustee shall enter into agreements with the new fund manager in order to secure the due performance of its duties as fund manager.

(4) In the event a fund manager is not found upon the expiry of the notice, the board of directors, partners, or trustee as the case may be shall call for an extra-ordinary general meeting to pass a resolution to liquidate the fund.

23. (1) A fund manager shall be removed—

Removal and
replacement of
fund manager

- (a) immediately upon the suspension or revocation of its license by the Authority; or
- (b) by the board of directors, partners, or trustee of the fund by giving at least three months' notice in writing to the fund manager, the unit holders and the Authority upon the occurrence of the following events—
 - (i) the fund manager goes into liquidation;
 - (ii) the fund manager is placed under administration;
 - (iii) for good and sufficient reason the trustee, board of directors, partners, is of the opinion, and so states in writing, that a change of fund manager is desirable in the interest of the participants; or

- (iv) at an extraordinary resolution of removing the fund manager is passed by three quarters majority in value of the participatory interests in existence (excluding participatory interests held or deemed to be held by the fund manager or by any associate of the fund manager) and the total number of participants.

(2) The fund manager shall on receipt of a notice under sub regulation (1) cease to be the fund manager of the fund and the board of directors, partners or trustee shall, by deed, appoint another person eligible under these regulations to be the fund manager of the fund.

24. (1) A scheme set up as either a trust, limited liability partnership or company may be wound up by the fund manager—

Winding up of an alternative investment fund.

- (a) where the Authority revokes the approval of the alternative investment fund;
- (b) where the fund manager or the trustee or custodian requests for the revocation of the Authority's approval of the scheme; or
- (c) upon the expiration of the tenure of the fund;
- (d) if it is the opinion of the fund manager or trustee, as the case may be, that the fund be wound up in the interests of participants;
- (e) if seventy five percent of the participants by value of their investment in the fund pass a resolution at a meeting of participants that the fund be wound up; or
- (f) if the Authority so directs in the interests of participants.

(2) Upon the occurrence of any of the events specified in this regulation, the fund manager shall proceed to wind up the fund in accordance with regulation 23 on the manner of winding up.

(3) The fund manager shall advise the Authority and participants of the circumstances leading to the winding up of the fund where applicable.

(4) On and from the date of advice under sub-regulation (3) no further pooling of funds for investments shall be made on behalf of the fund that has been wound up.

(5) The fund manager shall within one year from the date of the advice on winding up, liquidate the assets of the fund and distribute proceeds accruing to the participants after paying all liabilities.

(6) The Authority may extend the duration for winding up the fund under upon request by the fund manager.

25. (1) Pursuant to regulation 23 on winding up of a fund, a fund manager shall wind up—

Manner of winding up

- (a) A fund set up as a trust in accordance with the provision of its formation documents;

- (b) A fund set up as a limited liability partnership, in accordance with its formation documents; and
 - (c) A fund set up as a company shall be wound up in accordance with the provisions of the Companies Act, 2015.
- No. 17 of 2015
- (2) The Authority shall require a final account from the fund manager upon conclusion of the winding up of the fund.
- (3) Upon winding up of the fund, the approval by the Authority shall stand revoked.

PART V—INSPECTION

26. (1) The Authority may carry out an inspection on any aspect of the business of the fund either on an ad-hoc basis or on notice.

Authority's right to inspect

(2) During an inspection, the fund manager whose fund is being inspected shall be bound to discharge its obligations as provided in these regulations.

27. (1) It shall be the duty of—

Obligation on Inspection

- (a) the fund manager in respect of whom an inspection has been ordered under regulation 25; and
- (b) any other associated person who is in possession of relevant information pertaining to the conduct and affairs of the fund,

to produce and furnish to the Authority such books, accounts and other documents in its custody or control as the Authority may require for the purposes of inspection.

(2) The Authority shall, for the purposes of inspection, have power to obtain authenticated copies of documents, books, accounts of the fund manager and the fund, from any person having control or custody of such documents, books or accounts.

28. Where the Authority finds a material breach of the Act or these regulations after the inspection, the Authority shall after giving the fund manager, its trustees, board of directors or partners or custodian an opportunity to be heard, issue such direction as it deems fit in the interest of the market or participants which may include—

Communication of findings etc. to the Fund Manager and the fund

- (a) prohibiting a fund manager from launching a new schemes or pooling money from investors for a particular period;
- (b) prohibiting the person concerned from disposing of any of the assets of the scheme acquired in violation of these regulations;
- (c) requiring the person concerned to dispose of the assets of the fund or scheme in a manner as may be specified in the directions;
- (d) requiring the person concerned to refund any money or the assets to the concerned participants along with the requisite interest or otherwise, collected under the alternative investment fund;

- (e) prohibiting the person concerned from operating in the capital market or from accessing the capital market for a specified period; or
- (f) requiring the performance of any other action as the it may deem fit.

PART VI—PROCEDURE FOR ACTION IN CASE OF DEFAULT

29. Any person who contravenes these regulations or such other regulations as may be applicable to the fund may be liable to such sanctions as may be imposed by the Authority under the Act.

Liability for
action in case of
default

30. A person who contravenes or fails to comply with any provision of these regulations or such other regulations as may be applicable to the fund, may in addition to sanctions as may be imposed by the Authority be liable for loss or damage suffered as a result of such contravention or failure.

Liability for loss

PART VII—TEMPORARY EXEMPTION FROM OPERATION OF THE REGULATIONS

31. (1) The Authority may exempt any person or class of persons from the operation of all or any of the provisions of these Regulations for a period as may be specified but not exceeding twenty-four months, for furthering innovation in the capital markets in a live environment of the regulatory sandbox in the securities markets.

Exemptions in
special cases

(2) Any exemption granted by the Authority under sub-regulation (1) shall be subject to the Applicant satisfying such conditions as may be specified by the Authority including conditions to be complied with on a continuous basis.

PART VIII—MISCELLANEOUS

32. Any person who contravenes the provisions of these regulations shall be liable upon conviction to the penalty specified under section 34A of the Act and general damages where applicable, for any loss occasioned to the other party.

Offences

33. (1) An existing fund falling within the definition of alternative investment fund which is not approved by the Authority may continue to operate for a period of one year from commencement of these Regulations or if it has made an application for approval under this Regulation within the said period of one year, till the determination of such application.

Transition

(2) Any entity referred to in sub-regulation (1) which fails to make an application for approval under these Regulations within one year from the commencement of these regulations shall cease to carry on any activity as an alternative investment fund failure to which, will constitute an offence.

FIRST SCHEDULE [r. 4(3)]
APPLICATION FOR APPROVAL OF AN ALTERNATIVE INVESTMENT FUND

PROMOTER	
Name:	
Contact address:	
License details	
CONSTITUTION	
Legal form of the alternative investment fund:	
i. unit trust	
ii. investment company	
iii. Limited liability partnership	
Title of the law under which the alternative investment fund is or is to be constituted.	
KEY OFFICERS	
State name, address, place of birth and citizenship of:	
i. Directors.	
ii. chief executive	
State educational and professional qualifications of the key officers.	
Give details of business, occupation or employment history of the key officers.	
REFERENCES	
Give two personal references and a bank reference of the key officers.	
FUNCTIONARIES:	
State names, addresses and business activities of each of the collective investment scheme's	
Fund manager,	Name:
	Address:
	Business activities:
Custodians	Name:
	Address:
	Business activities:
Administrators;	Name:
	Address:
	Business activities:
Investment Advisers	Name:
	Address:
	Business activities:
Trustees	Name:
	Address:
	Business activities:

PRIOR REGISTRATION:	
State if the alternative investment fund is now or has been registered, licensed, recognized or authorized under any law or regulation in any country or jurisdiction outside Kenya.	
REFUSAL OR DISCIPLINARY MEASURES	
Has the fund manager or any of its officers, managers, administrators, investment advisers or custodians been the subject of —	
Refusal of an application for registration, licence, recognition or authorization; Give details and reasons if yes	
Suspension, cancellation or revocation of registration, licence, recognition or authorization by any authority in any country or jurisdiction including Kenya? Give details and reasons if yes	
CIVIL PROCEEDINGS	
Has a judgment been rendered or any suit, action or proceedings pending against any officer of the fund manager or of any of its functionaries listed above in civil proceedings in any court or tribunal in any country or jurisdiction which has been or is based in whole or in part on fraud, theft, deceit, misrepresentation or similar conduct? Give details if yes.	
OFFENCES	
Has any key officer of the fund manager or any of its functionaries listed above been or is being charged, indicted or convicted in any country or jurisdiction for any offence in any criminal or civil proceedings relating to fraud or theft arising out of dealing in mutual funds, alternative investment funds or securities?	
BANKRUPTCY	
Has any key officer or the fund manager or of any of its functionaries listed above been —	
(a) declared bankrupt or been party to bankruptcy or insolvency proceedings? or	
(b) subject to proceedings relating to winding up, dissolution or creditors' arrangements; or	

(c) subject to proceedings relating to receivership or creditors' compromise; in any country or jurisdiction?	
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DECLARATION STATEMENT

We hereby agree and declare that the information supplied in the application, including the attachment sheets, is complete and true.

AND we further agree that, we shall notify the Authority immediately of any change in the information provided in the application.

We further agree that we shall comply with, and be bound by the Act, these Regulations and such guidelines/instructions as may be announced by the Authority from time to time.

We further agree that as a condition of registration, we shall abide by such operational instructions/directives as may be issued by the Authority from time to time.

We..... (Director/Partner/Trustee)
 (Director/Partner/Trustee)and
 (Secretary)

declare that all the information given in this application and in the attached documents is true and correct

Dated this day of 20

Signed:

..... Director/Partner/Trustee
 Director/Partner/Trustee
 Secretary)

SECOND SCHEDULE
GENERAL INFORMATION

[r. 5(a)(i)]

EACH APPLICATION FOR APPROVAL OF AN ALTERNATIVE INVESTMENT
FUND SHALL BE ACCOMPANIED BY THE INFORMATION INDICATED
BELOW, AS RELEVANT:

1. GENERAL INFORMATION

- a) Name, address of the registered office, address for correspondence and principal place of business, telephone number(s), e-mail address of the applicant.
- b) Name, direct line number, mobile number and e-mail of the contact person(s).
- c) Legal structure of applicant - Whether the applicant is a company or trust or limited liability partnership or any other body corporate.
- d) Date and place of incorporation/ establishment.
- e) Asset classes for which registration of the alternative investment fund is applied
- f) Whether the applicant or its associates is/ are registered with the Authority or any other regulatory authority in any capacity along with the details of its registration.
- g) Details of infrastructure for conducting activities as an alternative investment fund
- h) Copy of the draft placement memorandum.

2. DETAILS OF THE ALTERNATIVE INVESTMENT FUND

I. Alternative investment fund as a Trust:

- a) Written submission on the activities of the applicant;
- b) registration documents to be attached;
- c) State whether the trust deed permits the carrying on of the activity of an alternative investment fund;
- d) State whether the applicant is prohibited by its trust deed from making an invitation to the public to subscribe to its participatory interests;
- e) Provide details of trustee and copy of the proposed contract between the fund manager and the trustee as required in terms of these regulations;

II. Alternative Investment Fund as a company:

- a) Written submission on the activities of the applicant
- b) Shareholding structure and profile of the directors (Enclose Identity proof and address proof of the directors)
- c) incorporation documents to be attached

- d) State whether the incorporation documents permit carrying on of the activity of an alternative investment fund (Enclose relevant extract of the memorandum of association)
- e) Whether the applicant is prohibited by its articles of association from making an invitation to the public to subscribe to its securities;
- f) Provide details of custodian and copy of the proposed contract between the alternative investment fund and the custodian as required in these regulations

III. Alternative Investment Fund as a Limited Liability Partnership:

- a) Written submission on the activities of the applicant
- b) Beneficial ownership structure and profile of the partners (Enclose Identity proof and address proof of the partners)
- c) Attach copy of the partnership agreement/deed;
- d) Whether the applicant is prohibited by its partnership deed from making an invitation to the public to subscribe to its securities;
- e) Provide details of trustee and a copy of the proposed contract between the alternative investment fund and the trustee as required in these regulations.

3. DETAILS OF FUND MANAGER

- a) Certified copy of the license certificate

4. DETAILS OF BUSINESS PLAN AND INVESTMENT STRATEGY

- a) Investment objective and investment style/ strategy of the alternative investment fund.
- b) The target investors
- c) The target industries/ sectors, if any
- d) Proposed scheme assets
- e) Proposed fees to the fund manager
- f) Tenure/duration of the AIF or scheme
- g) Details of proposed use of leverage

5. OTHER INFORMATION/DECLARATIONS

- a) Amount contributed/ proposed to be contributed by the fund manager along with details of the same. (Provide copies of commitment letters from the fund manager.
- b) Whether the fund manager, trustee or custodian or any of their associates are fit and proper persons based on the criteria specified in the Capital Markets (Licensing) (General) Regulations; (Enclose a declaration to that effect).

- c) Declaration that the applicant shall comply with the provisions of these Regulations with respect to investment in the alternative investment fund.
- d) Declaration that the applicant shall comply with the provisions of these Regulations with respect to general investment conditions and conditions for the applicable category.

THIRD SCHEDULE

[r. 4(4)]

Application fees

Ksh. 10,000

Approval and annual regulatory fees

Ksh. 250,000

Made on 3rd October, 2023.

NJUGUNA NDUNG'U,
*Cabinet Secretary for the
National Treasury and Economic Planning.*

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(Legislative Supplement No. 75)

LEGAL NOTICE NO. 171

THE CAPITAL MARKETS ACT

(Cap. 485A)

**THE CAPITAL MARKETS (CREDIT RATING AGENCIES)
REGULATIONS, 2023**

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THE CAPITAL MARKETS ACT

(Cap. 485A)

THE CAPITAL MARKETS (CREDIT RATING AGENCIES)
REGULATIONS, 2023

IN EXERCISE of the powers conferred by section 12(1)(h) of the Capital Markets Act, the Cabinet Secretary for the National Treasury and Economic Planning makes the following Regulations—

THE CAPITAL MARKETS (CREDIT RATING AGENCIES)
REGULATIONS, 2023

PART I—PRELIMINARY

1. These Regulations may be cited as the Capital Markets (Credit Rating Agencies) Regulations, 2023. Citation.

2. In these Regulations, unless the context otherwise requires— Interpretation.

“client” means a person who engages the services of a credit rating agency for the purposes of a rating;

“credit rating agency” means an entity which is in, or proposes to engage in, the business of rating of securities and issuers;

“credit rating methodology” means the procedure by which a credit rating agency determines credit ratings including the information that must be considered or analysed to determine a credit rating and the analytical framework used to determine a credit rating including, as applicable, the models, financial metrics, assumptions, criteria or other qualitative or quantitative factors to be used to determine a credit rating;

“day” means calendar day excluding Saturdays, Sundays and public holidays;

“downgrade” means a negative change in the rating of a security or an issuer;

“foreign applicant” means an entity that is incorporated or registered outside Kenya that seeks to be recognised in accordance with these Regulations;

“issuer” means an entity by which a security has been issued, guaranteed or by which the credit underlying the security has otherwise been supported and includes the corporate parent or majority-owned subsidiary of an issuer;

“rating” means an opinion regarding a security or an issuer expressed in the form of standard symbols or in any other standardised manner, assigned by a credit rating agency;

“private credit rating” means a credit rating that is not made public and is applicable to a private offer of a security;

“public credit rating” means a credit rating on an issuer or a security offered to the public that is made public and subject to specific requirements set out in these Regulations;

"rating committee" means a committee constituted by a credit rating agency to assign a rating to a security; and

"upgrade" means a positive change in the rating of a security or an issuer.

3. These Regulations shall apply to any entity that intends to assign a rating to a security issued in Kenya or an issuer operating in Kenya.

Scope.

PART II—APPROVAL OF CREDIT RATING AGENCIES

4. (1) An entity which intends to undertake business as a credit rating agency in Kenya shall apply to the Authority for approval to carry on such business in the form set out in the First Schedule.

Application for approval.

(2) An entity applying for approval under subregulation (1) shall pay the application fee specified in the Second Schedule.

5. An entity that is established in Kenya shall be eligible to apply for approval under regulation 4 if that entity—

Eligibility of applicants.

- (a) is a body corporate;
- (b) has specified in its formation documents that the rating of securities and issuers of securities is one of its main objectives;
- (c) has a stable financial base with a minimum paid up capital of at least twelve million shillings;
- (d) has adequate infrastructure to enable the entity to provide rating services as prescribed under the Act and these Regulations;
- (e) has professional competence, financial soundness and general reputation for fairness and integrity in business transactions to the satisfaction of the Authority;
- (f) is not or any of its directors is not involved in any legal proceedings connected with the securities market which may have an adverse impact on the interests of investors has not been convicted of any offence involving moral depravity or of any economic offence;
- (g) has in its employment, persons having adequate professional and relevant experience to the satisfaction of the Authority;
- (h) is a fit and proper entity as provided under section 24A of the Act for the grant of an approval;
- (i) has a sample standard agreement between the entity and its clients; and
- (j) has a—
 - (i) sample letter of request for rating; and
 - (ii) draft of the information requirements for rating a security and an issuer.

6. (1) A foreign applicant that seeks to carry on the business of rating in Kenya shall apply in writing to the Authority for a certificate of recognition.

Recognition of
foreign applicants.

(2) An application under subregulation (1) shall be accompanied by the application fee specified in the Second Schedule and the following documents—

- (a) authorisation by the relevant regulator in the foreign applicant's jurisdiction that the foreign applicant is a credit rating agency in the form of a certified copy of a valid licence or approval to carry on the business of a credit rating agency;
- (b) a letter of licence or approval status from the foreign applicant's primary regulator;
- (c) proof that the relevant regulator is a member of the International Organisation of Securities Commission for the purposes of information sharing and supervision;
- (d) proof that the foreign applicant has the technical capacity and experience to carry on the business of a credit rating agency;
- (e) a code of conduct where the foreign applicant has adopted and implemented in full the International Organisation of Securities Commission Code on Credit Rating Agencies and, where there is a deviation from the Code, indicate the reason for the deviation;
- (f) a business plan that includes resumés of the foreign applicant's top management staff and management structure;
- (g) a brief on the rating methodology, rating grades and free structure;
- (h) a sample of a standard agreement between the foreign applicant and its clients; and
- (k) a draft—
 - (i) sample letter of request for rating; and
 - (ii) of the information requirements for rating a security and an issuer.

7. (1) The Authority may require an applicant to furnish such further information as may be necessary for the purposes of processing the application.

Furnishing of
information,
clarifications and
personal
representations.

(2) The Authority may ask the applicant or the applicant's authorised representative to appear before the Authority in person in connection with the application for grant of approval.

8. (1) The Authority, on being satisfied that an applicant meets all the requirements for approval or recognition, shall grant approval or

Grant of approval
or certificate of
recognition.

a certificate of recognition to carry on business in Kenya as a credit rating agency.

(2) The approval or certificate granted under subregulation (1) shall be valid unless it is suspended or cancelled by the Authority.

9. (1) Where the Authority determines that approval or recognition should not be granted to an applicant, the Authority may, after giving the applicant a reasonable opportunity to be heard, refuse to grant the approval or certificate of recognition.

Refusal to grant approval or certificate of recognition.

(2) The decision of the Authority under subregulation (1) shall be communicated to the applicant in writing within thirty days after the decision has been made stating the grounds for the refusal to grant the approval or certificate of recognition.

(3) An applicant that is aggrieved by the decision of the Authority to refuse to grant the approval or certificate of recognition may appeal against the decision to the Capital Markets Tribunal.

PART III—GENERAL OBLIGATIONS OF CREDIT RATING AGENCIES

10. Where a credit rating agency intends to change its establishment status or constitution, it shall notify the Authority in writing of the intended changes.

Notification of changes.

11. (1) An entity carrying on business as a credit rating agency shall operationally, legally and, where practicable, physically separate its credit rating business from any other business of the entity that may present a conflict of interest.

Conflicts of interest.

(2) Where the other business of the entity does not present a conflict of interest with the entity's credit rating business, the entity shall establish, maintain, document and enforce policies, procedures and controls for the minimisation of conflicts of interest shall arise between that other business and the credit rating business.

(3) An entity carrying on business as a credit rating agency shall disclose to the Authority in writing the justification as to why that other business of the entity does not present a conflict of interest with the credit rating business of the entity.

12. A credit rating agency shall enter into a written agreement with each client and issuer whose securities it intends to rate and every such agreement shall include the following provisions—

Agreements with clients.

- (a) the rights and liabilities of each party to the agreement in respect of the rating of the security or issuer;
- (b) the fee charged by the credit rating agency;
- (c) the obligation of the client to co-operate with the credit rating agency in order to enable the credit rating agency to conduct periodic reviews of the rating during the tenure of the security or issuer, as may be applicable;

- (d) the obligation of the client to provide true, adequate and timely information to enable the credit rating agency to arrive at, and maintain, a true and accurate rating of the security or issuer;
- (e) the credit rating agency shall disclose to the client the rating assigned to the client or security issued by the client annually, whether or not the rating is accepted by the client;
- (f) the client shall disclose in an offer document—
 - (i) the rating assigned to the issuer or security issued by the client, as the case may be, by any other credit rating agency during the preceding three years; and
 - (ii) any rating given in respect of the issuer or security issued by the client, as the case may be, by any other credit rating agency that has not been accepted by the client;
- (g) the client shall give explicit consent to the credit rating agency to obtain the details related to the client's existing or future borrowing of any nature, repayment and delay or default, if any, of any nature, in servicing the borrowing, from the lender or any other statutory or non-statutory organisation maintaining any such information to enable the credit rating agency to have timely information and consider the impact of such information on the rating assigned by the credit rating agency; and
- (h) the client shall take reasonable steps to give each investor information needed to enable the investor to make a balanced and informed investment decision, in a comprehensible form, after receiving the credit rating.

13. Each credit rating agency shall—

Rating process.

- (a) specify the rating process;
- (b) file with the Authority a copy of the rating process and any modifications or additions made to the rating process.
- (c) in all cases, follow a proper rating process;
- (d) have professional rating committees comprising members who are adequately qualified and knowledgeable to assign ratings;
- (e) ensure that each rating decision, including a decision regarding changes in a rating, is made by the rating committee;
- (f) be staffed by analysts who are qualified to carry out ratings;
- (g) inform the Authority in writing about new rating instruments and symbols used by the credit rating agency;
- (h) while rating a security or issuer, exercise due diligence to ensure that the rating given by the credit rating agency is fair and appropriate;

- (i) not rate securities issued by the credit rating agency;
 - (j) not change the rating definition and structure of a particular rating product without first notifying the Authority in writing; and
 - (k) disclose to the public and investors through its website and other appropriate medium the rating assigned to an issuer or security issued by a client after periodic review including changes in the rating, if any.
14. Each credit rating agency shall—
- Monitoring of ratings.
- (a) continuously and at least once in each year, monitor and review the rating of the security or issuer of a security during the tenure of the security or issuer rated by the credit rating agency, unless the rating has been withdrawn;
 - (b) document in writing the review of the security or issuer of the security at least once in each year and publicly disclose the results of the review in the credit rating agency's website; and
 - (c) promptly disseminate information regarding each newly-assigned rating and changes to an earlier rating through its website or any other appropriate medium.
15. (1) A credit rating agency shall continuously and at least once in each year monitor all its published ratings and annual rating reviews during the tenure of each security it has rated, unless the rating is withdrawn.
- Reviews of rating.
- (2) If a client fails to co-operate with the credit rating agency, including by failing to provide the information required to conduct a review of a security or an issuer of a security, and, because of that failure, the credit rating agency is unable to comply with the obligation under subregulation (1), the credit rating agency may withdraw the rating assigned to the security or issuer of the security.
- (3) The credit rating agency shall notify the Authority in writing each instance where the credit rating agency withdraws a rating of a security or an issuer of a security within twenty-four hours of the withdrawal of the rating.
- (4) The credit rating agency shall not withdraw a rating where the obligations under the issuer or security rated by the credit rating agency are outstanding except—
- (a) where the client or issuer of the security rated by the credit rating agency has been wound up, merged or amalgamated with another entity;
 - (b) where the client fails to provide adequate information to enable the credit rating agency to conduct an annual review of the rating assigned to the client or a security issued by the client; or
 - (c) in such other circumstances as may be specified by the Authority.

16. Each credit rating agency shall establish appropriate procedures and systems to detect and prevent the trading by its employees in the securities of the credit rating agency's clients in order to prevent insider trading and market abuse.

Procedures to prevent insider trading and market abuse by employees.

17. Each credit rating agency shall—

Disclosure of rating definitions and rationale.

- (a) make public the definitions of any rating and the symbol of the rating it has assigned to a security or issuer of a security;
- (b) state that the rating it has assigned to a security or issuer of a security does not constitute a recommendation to buy, hold or trade any security; and
- (c) make available to the general public the information relating to the rationale for a rating it has assigned to a security or issuer of a security including an analysis of the factors justifying the rating and factors constituting a risk in respect of the security or issuer of the security.

18. (1) The Authority may, in writing, request a credit rating agency to provide information relating to its activities, including reports relating to its activities.

Submission of information to the Authority.

(2) The credit rating agency shall furnish the Authority with the information requested under subregulation (1) within the period specified in the request and if no such period is specified, within a reasonable time.

(3) Each credit rating agency shall, within four months after the end of the financial year, furnish the Authority with copies of the credit rating agency's audited financial accounts.

(4) Each credit rating agency shall disclose the following information to the Authority, to an issuer whose security the credit rating agency has rated, and on its website—

- (a) the rating methodology used by the credit rating agency;
- (b) attributes and limitation of each rating assigned to a security or issuer of a security by the credit rating agency;
- (c) upgrades and downgrades of ratings;
- (d) each past favourably issuer of a security that has defaulted in the preceding five years; and
- (e) each rating of commercial paper or corporate bond or any other rating of a capital market instrument, as may be applicable.

(5) Each credit rating agency shall disclose to the Authority the fees it charges for its services.

19. Each credit rating agency shall comply with such guidelines, directives, circulars and instructions issued by the Authority in respect of ratings.

Compliance guidelines, directives, circulars and instructions.

20. (1) Each credit rating agency shall appoint a compliance officer who shall be responsible for monitoring compliance with the Act, the Regulations and any guidelines, directives, circulars and instructions issued by the Authority in respect of ratings.

Compliance officers.

(2) A compliance officer appointed under subregulation (1) shall immediately and independently report to the Authority any non-compliance by the credit rating agency with the Act, these Regulations or guidelines, directives, circulars and instructions issued by the Authority in respect of ratings.

21. A credit rating agency shall not appoint or dismiss its auditor unless it has notified the Authority in writing at least one month before the intended appointment or dismissal.

Appointment of auditors.

22. Each credit rating agency shall keep and maintain, for at least seven years, the following books of account, records and documents—

Books of account and records.

- (a) a copy of the financial statements for each financial year;
- (b) a copy of the agreement between the credit rating agency and each client;
- (c) information furnished to the credit rating agency by each client;
- (d) correspondence between the credit rating agency and each client;
- (e) the rating assigned to each security including any upgrade and downgrade, if any, of the security;
- (f) rating notes used by the rating committee in the assigning of a rating;
- (g) a record of the decisions of the rating committee;
- (h) each letter assigning a rating;
- (i) the particulars of fees charged by the credit rating agency for each rating; and
- (j) such other records as the Authority may specify.

23. Each credit rating agency shall submit to the Authority an annual report within sixty days after the end of the financial year on the following—

Annual report.

- (a) the total ratings conducted in Kenya in that year;
- (b) the details of any downgrades or upgrades made in that year; and
- (c) any other information as may be required by the Authority.

24. Each credit rating agency shall, within two months after the date of the auditor's report, take steps to rectify the deficiencies, of any, stated in the auditor's report.

Auditors' reports.

25. Each credit rating agency shall maintain the confidentiality of information furnished to it by a client and shall not disclose the information to any other person except where such disclosure is required or permitted by any law for the time being in force.

Confidentiality.

26. A credit rating agency shall not assign a rating to a security issued by its associate or subsidiary if the credit rating agency or its rating committee has a chairperson, director or employee who is also the chairperson, director or employee of such associate or subsidiary.

Credit rating agency not to rate its own securities.

27. The Capital Markets (Conduct of Business) (Market Intermediaries) Regulations, 2011, shall apply to the conduct of the business of credit rating agencies in so far as—

Conduct of business.
L.N. 145/2011.

- (a) the Regulations are consistent with these Regulations; and
- (b) the Regulations are applicable to the business of credit rating agencies.

PART IV—INSPECTION AND INVESTIGATION

28. (1) The Authority may appoint an officer of the Authority to inspect or investigate the books of account, records or documents of a credit rating agency for any of the reasons specified in subregulation (2).

Inspections and investigations.

(2) An inspection or investigation under subregulation (1) shall be—

- (a) to ascertain whether the books of account, records or documents of the credit rating agency have been properly kept and maintained;
- (b) to ascertain whether the credit rating agency has complied with the Act and these Regulations;
- (c) to investigate any complaint against the credit rating agency by an investor, client or any other person on any matter having a bearing on the activities of the credit rating agency; or
- (d) in the interest of the securities market or investors.

(3) An inspection or investigation under subregulation (1) shall not be for the purpose of examining the appropriateness or merits of a rating assigned to a security or an issuer of a security.

(4) The Authority may inspect the appropriateness or merits of a rating assigned to a security or an issuer of a security only in the case of a default of the issuer of the security.

(5) An inspection or investigation under subregulation (4) shall be conducted by an officer of the Authority or an independent expert with relevant expertise and experience, or a combination of both.

29. (1) Before initiating an inspection or investigation under regulation 28, the Authority shall give ten days written notice to the credit rating agency of the intention to conduct the inspection or investigation.

Notice before inspections or investigations.

(2) Without prejudice to subregulation (1), where the Authority is satisfied that, in the interests of investors, no notice should be given of the intention to conduct an inspection or investigation, the Authority may direct, in writing, that the inspection or investigation be conducted without giving notice.

30. (1) A credit rating agency whose books of account, records or documents are being inspected or investigated, and every director, officer and employee of the credit rating agency, shall furnish to the officer of the Authority or independent expert appointed by the Authority for that purpose such books of account, records or documents in the credit rating agency's custody relating to the credit rating agency's rating activities within ten days or such reasonable period as may be specified by the officer of the Authority or independent expert.

Obligations of credit rating agencies during inspections or investigations.

(2) A credit rating agency shall, in the course of the inspection or investigation—

- (a) allow the officer or independent expert to have reasonable access to the premises occupied by the credit rating agency or director, officer and employee of the credit rating agency;
- (b) extend to the officer or independent expert reasonable facilities for the examination of the books of account, records or documents of the credit rating agency; and
- (c) provide copies of books of account, records, documents or other relevant materials which, in the opinion of the officer or independent expert, are relevant for the purpose of the inspection or investigation.

(3) The officer of the Authority or independent expert, during the course of an inspection or investigation under this regulation, be entitled to examine or record the statements of the directors, officers or employees of the credit rating agency in connection with the inspection or investigation.

(4) Each director, officer and employee of the credit rating agency shall be bound to render all assistance to the officer of the Authority or independent expert in connection with the inspection or investigation which the officer of the Authority or independent expert may reasonably require.

31. The officer of the Authority or independent expert who conducts an inspection or investigation of the books of account, records or documents of a credit rating agency shall within thirty days after the completion of the inspection or investigation, submit a report thereon to the Authority:

Submission of reports to the Authority.

Provided that, on the direction of the Authority, the officer of the Authority or independent expert may submit an interim report on the inspection or investigation.

32. The Authority shall, after the consideration of an inspection or investigation report, take such action as may be appropriate in accordance with the Act and these Regulations.

Action on inspection or investigation report.

33. A credit rating agency that contravenes any of the provisions of these Regulations shall be liable, on conviction, to the penalties prescribed under the Act.

Penalty.

34. (1) A credit rating agency that had been approved or recognised by the Authority before the coming into operation of these Regulations shall be deemed to have been approved or recognised in accordance with these Regulations.

Transitions and savings.

(2) A credit rating agency that had been approved or recognised by the Authority before the coming into operation of these Regulations shall, within six months after the coming into operation of these Regulations, comply fully with these Regulations.

SCHEDULES

FIRST SCHEDULE

[Regulation 4(1)]

THE CAPITAL MARKETS AUTHORITY

THE CAPITAL MARKETS AUTHORITY (CREDIT RATING AGENCIES)
REGULATIONS, 2023

APPLICATION FOR APPROVAL TO OPERATE AS A CREDIT RATING AGENCY

Application is made for a Credit Rating Agency approval in accordance with the Capital Markets (Credit Rating Agencies) Regulations, 2023, and the following statements are made in respect thereof:

Notes:

1. *If space is insufficient to provide details, please attach annexures.*
2. *Any annexure should be identified as such and signed by each signatory to this application.*

A. INFORMATION ON THE APPLICANT

1. Name of the applicant:
2. Registered office:
3. Date of incorporation:
4. Address:
5. Email:
6. Location of principal office:
 Telephone number of principal:
 Branch offices (if any):
 Details of branch offices:

B. INFORMATION ON THE APPLICANT'S BUSINESS

7. State the exact nature of the activities to be carried out which obligates the applicant to apply for recognition by the Capital Markets Authority

8. Information on the business model *(Please attach a business plan)*

9. Description of the internal controls to secure the integrity of the business (Risk management, data protection, information security, control mechanisms for compliance with investor protection requirements)

C. OWNERSHIP STRUCTURE, DIRECTORS AND OTHER KEY PERSONNEL

Fit and proper: The directors and senior managers of the applicant must be fit and proper persons to hold their respective positions

Capability: The applicant must have the right mix of people with the right skills and experience in the right roles, to monitor the licensed business properly and effectively

Financial resources: The applicant must have adequate financial resources to effectively and efficiently run the licensed business

10. Details of capital structure

- (a) Nominal capital (Ksh.)
- (b) Number of shares
- (c) Paid up capital (Ksh.)
- (d) Liquid capital (Ksh.)

11. Shareholders (Please attach a list showing the following details)

Name	Address and telephone No.	No. of shares held

12. Directors (Please attach a list showing the following details)

Name	ID card/passport No.	Date of appointment	Date of birth	Permanent address and telephone no.	Academic or professional qualifications	No. of shares held in the company

13. Company secretary (Details)

- (a) Name

(b) Address

(c) Institute of Certified Secretaries of Kenya Registration No.

14. Chief Executive officer and other Key Personnel (*Please attach list with the following details*)

<i>Name</i>	<i>ID card/passport No.</i>	<i>Date of appointment</i>	<i>Date of birth</i>	<i>Permanent address and telephone no.</i>	<i>Academic or professional qualifications</i>	<i>No. of shares held in the company</i>

15. Profile of Directors

<i>Name</i>	<i>Post</i>	<i>Qualifications</i>	<i>Experience</i>

D. OTHER PARTICULARS ON THE KEY PERSONNEL OF THE APPLICANT

16. Particulars of other directorships of the directors and secretary

.....

17. Particulars of shares held by directors and secretary in other companies

.....

18. Has the applicant or any director, secretary or member of senior management of the applicant at any time been placed under receivership, declared bankrupt or compounded with or made an assignment for the benefit of the applicant's creditors, in Kenya or elsewhere? Yes/No.

If yes, give details.

.....

19. Has any director, secretary or senior management of the applicant been a director, secretary or senior management of a company that has been:

(a) denied approval or recognition under the Capital Markets Act or equivalent legislation in any other jurisdiction? Yes/No

If yes, give details.

.....

.....

.....

- (b) a director, secretary or senior management of a company providing banking, insurance, financial or investment advisory services whose licence has been revoked by the relevant regulatory authority? Yes/No

If yes, give details.

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.....

- (c) subjected to any form of disciplinary action by any professional body of which the applicant or any of its directors, secretary or senior management was a member? Yes/No

If yes, give details.

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20. Has any court ever found that the applicant, or a person associated with the applicant, was involved in a violation of the Capital Markets Act or Regulations thereunder, or equivalent law outside Kenya? Yes/No

If yes, give details.

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21. Is the applicant or a person associated with the applicant currently the subject of any proceedings that could result in a "yes" answer under paragraph 20? Yes/No

If yes, give details.

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22. (1) Is the applicant, or any shareholder, director or secretary of the applicant, a member or director of a member company of any securities exchange or derivatives exchange or any over-the-counter platform? Yes/No

If yes, give details

.....

.....

.....

- (2) Has the applicant, or any shareholder, director or secretary of the applicant, been:

- (a) refused membership of a securities exchange or derivatives exchange or any over-the-counter-platform? Yes/No

If yes, give details

.....

.....

.....

- (b) expelled or suspended from trading on a securities exchange or derivatives exchange or any over-the-counter platform? Yes/No

If yes, give details

.....

.....

.....

- (c) subjected to any other form of disciplinary action by a securities exchange or derivatives exchange or any over-the-counter platform? Yes/No

If yes, give details

.....

.....

.....

E. REFERENCES

23. Business references

<i>Name</i>	<i>Address</i>	<i>Telephone number</i>	<i>Occupation</i>

24. One bank reference (Where the applicant is a bank the reference shall be given by another bank independent of the applicant)

[illegible]

F. ADDITIONAL INFORMATION

25. Any other additional information considered relevant to this application:

We and

(Director)

(Director)

and

(Secretary)

declare that the information given in this application and attached documents is true and correct.

Dated this day of, 20

Signed:

.....) Director

.....) Director

.....) Secretary

Secretary note:

The following shall be submitted together with the application for approval or recognition:

1. Articles of association
2. Certificate of incorporation
3. Business plan that complies with the relevant Capital Markets Law
4. Detailed rules of the operation of the business
5. Risk management plan
6. A brief on the rating methodology, rating grades, and relevant fees
7. A copy of the platform's terms and conditions
8. A declaration by persons authorised as prescribed to accompany this application
9. Any other documents required under the Capital Markets (Credit Rating Agencies) Regulations, 2023
10. An application fee of Ksh. 10,000

SECOND SCHEDULE

(Regulations 4(2), 6)

THE CAPITAL MARKETS AUTHORITY

THE CAPITAL MARKETS AUTHORITY (CREDIT RATING AGENCIES)
REGULATIONS, 2023

FEES

<i>S/No.</i>	<i>Item</i>	<i>Fee (KSh.)</i>
1.	Application fee	10,000
2.	Approval fee	200,000
3.	Recognition fee	200,000
4.	Annual regulatory fee	200,000

Made on the 3rd October, 2023.

NJUGUNA NDUNG'U,
*Cabinet Secretary for the
National Treasury and Economic Planning.*

SPECIAL ISSUE

1035

Kenya Gazette Supplement No. 204

27th October, 2023

(Legislative Supplement No. 76)

LEGAL NOTICE NO. 172

THE CAPITAL MARKETS ACT

(Cap. 485A)

**THE CAPITAL MARKETS (PUBLIC OFFERS, LISTINGS AND
DISCLOSURES) REGULATIONS, 2023**

ARRANGEMENT OF REGULATIONS

Regulation

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THE CAPITAL MARKETS ACT

(Cap. 485A)

IN EXERCISE of the powers conferred by section 12 (1) of the Capital Markets Act, the Cabinet Secretary to the National Treasury and Economic Planning makes the following Regulations –

THE CAPITAL MARKETS (PUBLIC OFFERS, LISTINGS AND DISCLOSURES) REGULATIONS, 2023

PART 1– PRELIMINARY

1. These Regulations may be cited as the Capital Markets (Public Offers, Listings and Disclosures) Regulations, 2023. *Citation.*

2. (1) In these Regulations, unless the context otherwise requires— *Interpretation.*

“adequate working capital” means an amount of working capital sufficient to meet operational requirements of the business concern under normal circumstances;

“admission” means admission of securities to the Official List of a Securities Exchange;

“aggregated portfolio basis” means the percentage of proceeds allocated to certain project categories due to a large number of underlying projects in green bond issuances;

“associate” has the meaning assigned to it in the Act;

“book building” means a process undertaken to elicit and assess demand and price of securities for purposes of the determination of the quantum or value or coupon of specified securities to be offered in accordance with these Regulations;

“business combination”, in relation to a Special Purpose Acquisition Company, means a merger or amalgamation or acquisition of shares or assets of one or more companies having business operations;

“Central Bank of Kenya” means the Central Bank of Kenya established under Article 231 (1) of the Constitution;

“circular” means an information document issued to holders of listed securities in connection with proposed corporate action or transaction;

“company” means a limited liability company wherever incorporated or otherwise established and includes a corporation;

“corporate action” means an action or transaction undertaken or to be undertaken by an issuer which may affect the numbers, price, characteristics, value, status, classes and categories of the security, and shall include dividend, merger or take-over, consolidations and split of securities and additional issues;

"cross listing" means the listing on a securities exchange in Kenya of securities that are already listed on another securities exchange;

"days" means calendar days excluding Saturdays, Sundays and public holidays;

"Directors Training Program" means an accredited training programme for training in relation to, among others, directors' responsibilities, corporate governance, regulatory compliance and accountability, whether it is restricted to the Code or not;

"dual listing" means the initial listing of securities listed on two or more securities exchanges;

"distributable profits" has the meaning assigned to it under Section 423 of the Companies Act, 2015;

No. 17 of 2015.

"East African Community Partner State capital markets regulator" means the regulator or government entity charged with the supervision of capital markets in an East African Community partner state;

"East African Community partner state" means a state which is a member of the East African Community;

"electronic offer" means a public offer that is conducted on the internet or by other electronic or automated means or media, wholly or partially, where investors subscribe to the offer of securities by submitting applications electronically or the applications and allotments are processed and completed electronically, wholly or partially;

"eligible projects" means project categories in green bonds that contribute to environmental objectives including but not limited to climate change mitigation, climate change adaptation, natural resource conservation, biodiversity conservation, and pollution prevention and control;

"executive director" means a member of a board of directors of a company who also serves as a manager in the company;

"founding shareholder", in relation to a special purpose acquisition company, means persons who founded, initially financed or sponsored the establishment of the special purpose acquisition company;

"green bond" means a fixed income instrument, either unlisted or listed on a securities exchange, approved by the Authority, whose proceeds are used to finance or refinance new or existing projects that generate climate or other environmental benefits that conform to green guidelines and standards;

"green guidelines and standards" means guidelines and standards including—

- (a) Green Bond Principles, as may be amended, issued and governed by the International Capital Markets Association;

- (b) Green Bond Standards including the Climate Bonds Standard, as may be amended, issued and governed by the Climate Bonds Initiative;
- (c) Government policies and guidelines including the Kenya National Policy on Climate Change and Green Economy Strategy, among other Government policies; or
- (d) any other standard acceptable to the Authority;

"green shoe option" or "over-allotment option" means, in relation to an offer, the right reserved by an issuer to allot up to a specified number of securities in excess of the number of the relevant securities declared as the securities on offer and available under the offer;

"green washing" means deceptive or misleading practices by the issuers of securities to the public or any other person or entity licensed or approved by the Authority that create a false or exaggerated impression of environmental responsibility or sustainability efforts by the issuer, person or entity;

"ISA" means International Standards on Auditing as issued by the International Auditing and Assurance Standards Board or its successor;

"IFRS" means International Financial Reporting Standards as developed and issued by the International Accounting Standards Board or its successor;

"independent director" means a member of a board of directors who –

- (a) is not an executive director;
- (b) does not have a material or pecuniary relationship with the company or related persons;
- (c) is compensated through sitting fees or allowances; and
- (d) does not own shares in the company;

Provided that after six years of continuous service as such director, such person shall no longer be considered as an independent director;

"Independent Verifier" in relation to a green bond means an entity, independent of an issuer, its directors, senior management and advisers, compliant with the International Capital Markets Association's Guidelines for External Reviewers or accredited under the Climate Bonds Standards and Certification Scheme, or any other professional body acceptable to the Authority, appointed by the issuer to confirm the green status of the Green Bond;

"initial public offer" means an offer of specified securities by an unlisted issuer to the public for subscription and includes an offer for sale of specified securities to the public by any existing holders of such specified securities in an unlisted issuer;

“Insurance Regulatory Authority” means the Insurance Regulatory Authority established under the Insurance Act and any successor regulator; Cap. 487.

“International Securities Identification Number” is a twelve-digit alphanumeric code that uniquely identifies a specific security and issued by the body duly authorized by the Association of National Numbering Agencies or its successor;

“issuer”, in relation to any securities, means the person who has issued or is to issue securities to the public or a section thereof in Kenya, whether or not such securities are subject of an application for listing on a securities exchange or have been admitted to listing;

“legal entity” means any entity established or recognized under the laws of Kenya as a body corporate including a limited liability company and a limited liability partnership;

“key personnel” means the officers or personnel of the issuer who are members of its core management team (excluding non-executive board members) and includes any other person whom the issuer may declare as a key managerial personnel and includes management team;

“listing” means admission of a security to the Official List of a securities exchange and the terms “list” and “listed” shall be construed accordingly, and listing shall be deemed to occur, for purposes of determining whether purchase of securities in a public offering was of listed securities, when the securities exchange communicates in writing its admission of such security;

“listing by introduction” means the initial listing of securities that are publicly held other than as a result of an immediately preceding public offer;

“listed issuer” means an issuer any of whose securities are listed on a recognized securities exchange;

“Main Fixed Income Securities Market Segment” means a market segment for the listing of debt securities of issuers including but not limited to government and corporate bonds and debentures the initial offer size of which is over four hundred million shillings or such higher amount as the Authority may set from time to time;

“Main Investment Market Segment” means a market segment for the listing of equity securities meeting the criteria set out in the First Schedule;

“market segment” means a segment, defined in these Regulations or established by a securities exchange with the approval of the Authority, for the listing of securities that meet, or the securities of an entity that meets, a respective prescribed criteria;

“material information” means any information relating to an issuer that may ordinarily affect the price of an issuer’s securities or influence investment decisions of investors and includes, without limitation, information on –

- (a) a merger, acquisition or joint venture;
- (b) the re-organization of the capital structure of the issuer;
- (c) earnings and dividends, whether scrip or cash, of an unusual nature;
- (d) the acquisition or loss of a significant contract;
- (e) a significant new product or discovery;
- (f) a change in control or significant change in management;
- (g) a call of securities for redemption;
- (h) a public or private sale of a significant amount of additional securities;
- (i) the purchase or sale of a significant asset;
- (j) a significant labour dispute;
- (k) a significant dispute or determination thereof in respect of the issuer;
- (l) establishment of a programme to make purchases of the issuer's own shares;
- (m) a tender offer for another issuer's securities;
- (n) significant alteration of the memorandum and articles of association of the issuer; or
- (o) any other peculiar circumstances that may prevail with respect to the issuer or the relevant industry;

"material contract" means any contract or other arrangement to which a company or any of its subsidiaries is a party (other than the loan documents) for which breach, non-performance, cancellation or failure to renew could have a material adverse effect;

"non-executive director" means a member of a board of a company who is not an executive director and is not an executive director or employee of a related entity;

"offer" means an offer for subscription or purchase of securities in an issuer which, if accepted, would give rise to a contract for the issue or sale of the securities and, except where the context otherwise requires, "offer" and "offeror" shall be construed accordingly;

"offer period" means a period of up to ten working days, or such longer period as the Authority may approve, during which an offer to the public remains open;

"official list" means the list of securities listed on a securities exchange as maintained by a securities exchange, and updated from time to time;

"off-market purchase" means the purchase of listed securities made outside the securities exchange, or on a securities exchange without having to comply with the trading rules of the exchange for exchange transactions;

"on-market purchase" means the purchase of listed securities on a securities exchange in compliance with the trading rules of a securities exchange;

"performance indicators and metrics" in relation to a green bond, means qualitative performance measures as may be prescribed in the green guidelines and standards ;

"permitted investments", in relation to a SPAC, means investment in government bonds or treasury bills with maturity periods of not more than eighteen months;

"private company" has the meaning ascribed to it under the Companies Act, 2015;

"private offer" means an offer of securities as defined in regulation;

"private transaction" means a transfer of a listed security outside a securities exchange authorized by the Authority from one security holder to another whether or not it involves any consideration or change of beneficial interest or is otherwise authorized by the Authority under section 31;

"compliance officer" means a person engaged by an issuer to ensure the compliance of the issuer with the obligations of an issuer under these Regulations and the Act;

"public company" has the meaning ascribed to it under the Companies Act, 2015;

"public offer" means an offer which is not a private offer, and as more specifically described in regulation 9;

"regional fixed income securities" means fixed income securities issued under regulation 9 (1) 11;

"Registrar of Companies" has the meaning assigned to it in the Companies Act, 2015;

"related entity" means in relation to a natural person, any person who is related to that person by marriage, affinity or consanguinity or who is a partner or employee of that person; and in relation to a company any entity which is its holding company, subsidiary, subsidiary of its holding company, or any person who controls that company whether alone or with such person's related parties;

"reporting accountant" means an accountant who holds a current practicing certificate issued by the Institute of Certified Public Accountants of Kenya in accordance with the Accountants Act, 2008, and performs such functions of a reporting accountant as are set out in these Regulations;

No. 15 of 2008.

"restricted public offer" means a public offer restricted to sophisticated investors or such category or number of persons as the issuer shall prescribe in the short form prospectus;

"resulting issuer", in relation to a Special Purpose Acquisition Company, means the resultant combined entity whose securities trade on a securities exchange upon the completion of a business combination;

"rights issue" means an offer of specified securities by a listed issuer to the shareholders of the issuer as on the records date fixed for that purpose;

"secondary issue" means the issuance of securities by an issuer restricted to existing shareholders or holders of renounced rights, other than transactions at the initial public offering, and includes capitalization, rights issue, scrip dividend or bonus issue;

"SME Fixed Income Securities Market Segment" means a market segment for the listing of debt securities the initial offer size of which is below four hundred million shillings or such higher amount as the Authority may set from time to time and meeting the criteria set out in the Third Schedule;

"Small and Medium Enterprises Market Segment" means a market segment for the listing of equity securities issued by entities meeting the criteria set out in the First Schedule;

"share buyback" means the purchase by a listed company of its own shares from shareholders;

"shares registrar" means the person appointed by an issuer to maintain a register of the securities holding records of the issuer as required under any written law or the issuer's rules;

"shelf prospectus" means a prospectus in respect of securities or class of securities which are to be offered for subscription in one or more tranches over a specified period of time;

"special purpose acquisition company" means a company with no prior operating history, no operating and revenue-generating business or asset at the point of the initial public offer, and which raises proceeds for the sole purpose of undertaking a business combination in accordance with the business strategy and acquisition mandate disclosed in the information memorandum issued in relation to the initial public offer by a special purpose acquisition company;

"Special Purpose Acquisition Company IPO" means an Initial Public Offer in respect of a special purpose acquisition company;

"sophisticated investor" has the meaning assigned to it under the Act; and also includes an individual, company, partnership, association or a trustee on behalf of a trust which, either alone or with any associates on a joint account who subscribes for securities with an aggregate issue price of not less than one million shillings or such high amount as the Authority may determine from time to time;

"supplementary information memorandum" means the information memorandum referred to in regulation 25;

"supranational body" means any global or regional body, institution or organization the members or constituents of which are governments, inter-governmental organizations or governmental organizations or agencies;

"suspension" with respect to securities listed on a securities exchange, means a trading stoppage of more than one trading session;

"trading halt" means a temporary suspension of trading of not more than one trading session at a time for a particular security or securities on a securities exchange;

"transaction advisor" means a person appointed to carry out the responsibilities set out under regulation 32;

"treasury shares" means the shares of a listed company that have been bought back by a listed company from the company's shareholders and have not been cancelled or re-issued; and

"valuation" means the assessment and determination of the value of a security including business combinations or assets of a business by the relevant professionals in accordance with International Valuation Standards.

3. (1) These Regulations shall apply to—

Application.

- (a) the offer or sale to the public in Kenya, of securities in any form, with or without listing;
- (b) the listing of securities by introduction, including cross-listing;
- (c) the offer, issue or listing of additional securities by issuers who have made public offers, with or without listing; and
- (d) corporate actions by issuers of listed securities;
- (e) private offers.

4. The guiding principles of these Regulations are to—

Guiding principles.

- (a) establish fair, efficient and transparent capital markets;
- (b) encourage and promote the listing of securities on securities exchanges;
- (c) promote full, timely and accurate disclosure of material information;
- (d) eliminate or minimise challenges and disadvantages of listing securities;
- (e) promote good corporate governance by listed entities and issuers of securities;
- (f) promote the protection of investors and improve investor confidence in capital markets;
- (g) promote the fair and equitable treatment of issuers and investors;

- (h) promote the growth of the capital markets by encouraging and supporting the listing of new securities;
- (i) leverage technology to improve the operations of capital markets;
- (j) eliminate or minimise systemic risks in capital markets;
- (k) promote the use of capital markets to facilitate business growth and innovation by businesses; and
- (l) facilitate compliance with disclosure requirements and continuing obligations.

PART II- APPROVAL OF OFFERS OF SECURITIES AND LISTING

5. (1) These Regulations shall apply to any offer of securities to the public in Kenya, whether or not the issuer is seeking a listing on a securities exchange in Kenya.

Approval for offers and listing.

(2) The Authority shall be the competent authority to grant approval for any public offer of securities to the public in Kenya, including a restricted public offer and listing of securities on a securities exchange in Kenya.

(3) A person granted approval by the Authority to offer securities to the public or list the securities on a securities exchange shall state that fact on all announcements of the offer or listing.

(4) Securities approved by the Authority for offer to the public in the primary market of a securities exchange with approval for listing and admission to listing having been issued shall, in respect to a decision to invest, be deemed to have been listed on the date the securities exchange communicates to the issuer its admission to listing:

Provided that the issuer shall comply with any conditions or thresholds imposed by the securities exchange in respect to the listing of the securities.

6. (1) The Authority may, upon application by a securities exchange approved as a self-regulatory organization, delegate to the securities exchange the functions set out in subregulation (2) if the Authority is satisfied that the securities exchange has the technical, human resource and financial capacity to carry out the delegated role.

Delegation of approval of offers and listing

(2) The Authority may delegate to a securities exchange the approval of—

- (a) the information memorandum for an offer of securities on any segment of that securities exchange;
- (b) a public offer and listing of securities on any segment of that securities exchange;
- (c) a secondary issue and listing of securities of issuers on any segment of that securities exchange;

(d) any announcement, circular or corporate action in relation to securities listed on any market segment of that securities exchange; or

(e) any other matter relating to any market segment of a securities exchange that the Authority may approve.

(3) A delegation under subregulation (1) shall be in writing and may be upon such conditions as the Authority may impose.

(4) A securities exchange to which a delegation has been made under this regulation shall notify the Authority of any approvals for public offers and listings granted by the securities exchange under the delegated authority.

(5) The Authority may, for reasons to be specified in writing, withdraw any of the powers delegated by it to a securities exchange under subregulation (6) if—

(a) any authorization granted to a securities exchange to operate as a self-regulatory organization is cancelled or suspended;

(b) where the securities exchange breaches any of the conditions imposed by the Authority on such delegation;

(c) the securities exchange ceases to hold any qualifications which enabled the Authority to so delegate; or

(d) where, in the opinion of the Authority, it is in the interest of the public to withdraw the delegation.

(6) The Authority shall give the securities exchange the opportunity to be heard before the withdrawal of a delegation under this regulation.

7. (1) A securities exchange shall maintain an Official List in respect of all securities listed on the securities exchange.

Listing of securities.

(2) The securities exchange shall enter into the Official List the particulars of all securities that have been approved for listing.

(3) The securities exchange may only add securities to the Official List if the securities attain—

(a) the total minimum subscription of shares disclosed in the information memorandum approved by the Authority in respect of public offering and listing of securities; and

(b) the minimum subscribers prescribed for the respective market segment under these Regulations.

(4) The Official List shall, where applicable, include the following particulars in respect of each listed security—

(a) the name of issuer;

(b) the name of security;

(c) the International Securities Identification Number for the security;

- (d) the total number of securities listed;
- (e) the class of security;
- (f) the type of security;
- (g) the par value of the security;
- (h) the listing date;
- (i) the trading commencement date; and
- (j) the redemption date.

8. A securities exchange may, with the written approval of the Authority, establish and operate other market segments within the market segments set out in regulation 11(1) or prescribe or alter the eligibility requirements for such market segments so established.

Establishment of
market segments.

PART III—PUBLIC OFFERS, ELIGIBILITY, DISCLOSURE AND GENERAL REQUIREMENTS

9. (1) Subject to section 30A of the Act, a "public offer" includes—

Meaning of
"public offer".

- (a) an initial offer of securities to the public by an issuer;
- (b) a further or secondary or additional offer of securities to the public by an issuer; or
- (c) an offer for sale of securities to the public by an existing shareholder or shareholders.

(2) A person offers securities to the public in Kenya if such offer is not a private offer as provided in regulation 17.

(3) For the purposes of this Part, there is an offer of securities to the public if there is a communication to any person which presents information on the transferable securities to be offered, and the terms on which they are offered to enable the offeree to decide whether or not to buy or subscribe for the securities in question and that communication is designed to, or could, reach at least one hundred persons.

(4) The onus will be on the offeror to demonstrate that any offer said to not to be a public offer is a private offer.

10. An issuer shall seek approval from the Authority for the listing of its securities in one or more of the following ways—

Issue of securities
to the public and
listing.

- (a) offer for subscription for new securities;
- (b) offer for sale of existing securities;
- (c) listing by introduction; or
- (d) cross-listing.

11. A person is not eligible to issue securities to the public or list at a securities exchange, unless—

Eligibility to issue
securities.

- (a) with respect to securities to be listed on the Main Investment Market Segment, the issuer meets the eligibility requirements prescribed in Part A of the First Schedule;
- (b) with respect to securities to be listed on the Small and Medium Enterprises Market Segment, the issuer meets the eligibility requirements as set out in Part B of the First Schedule;
- (c) with respect to securities to be listed on the Main Fixed Income Securities Market Segment, the issuer meets the eligibility requirements set out in Second Schedule;
- (d) with respect to securities to be listed on the Small and Medium Enterprises Fixed Income Securities Market Segment, the issuer meets the eligibility requirements set out in the Third Schedule;
- (e) with respect to regional fixed income securities to be issued within a Partner State of the East African Community, the issuer meets the eligibility requirements set out in the Fourth Schedule;
- (f) with respect to any other market segment, and subject to regulation 8(3), the issuer meets the eligibility requirements prescribed by the securities exchange.

12. (1) These Regulations shall not apply to the issuance of securities by sovereign states or entities.

Issue by sovereign states.

(2) Despite sub-regulation (1), the listing of securities by sovereign states or entities shall require the approval of the Authority before listing.

13. The Authority may prescribe different eligibility and disclosure requirements for the issue and listing of securities to the public by a national government entity, a county government or a county government entity.

Issue by national or county entities.

14. (1) An issuer of securities to the public who does not wish to list the securities on a securities exchange shall meet the eligibility criteria and comply with the disclosure requirements prescribed for—

Issuers not seeking listing.

- (a) Small and Medium Enterprises Market Segment in the case of equities; and
- (b) Small and Medium Enterprises Fixed Income Securities Market Segment in the case of debt securities.

(2) An issuer who does not wish to list the securities on any market segment shall establish and maintain mechanisms approved by the Authority for facilitating trading and price discovery of the securities.

(3) An issuer who has made a public offer in accordance with subsection (1), may, after the expiry of one year since the securities ceased to be the subject of an offer to the public, list the securities by introduction.

15. (1) An issuer whose securities are listed on a market segment of a securities exchange shall not be eligible to transfer the listed securities to another market segment before the expiry of one year from the date of the first listing.

Transfer to new market segment.

(2) A transfer of securities from, or to, a market segment of a securities exchange shall—

- (a) be subjected to the eligibility criteria of the new segment;
- (b) comply with the disclosure requirements of the new segment; and
- (c) be subjected to the approval of the securities exchange;

Provided that the Authority shall be notified within fourteen days of any application being made, and its views considered, before approval is granted by the securities exchange.

16. An issuer whose securities are listed at a securities exchange shall not issue, or authorize its share registrar to issue or register, by way of capitalization, scrip dividend, additional rights issue or additional shares of the class listed to a greater amount than the number authorized for listing except in accordance with the disclosure requirements for additional listing prescribed in the Twelfth Schedule.

Dealing with additional issues of securities

PART IV—PRIVATE OFFERS

17. (1) For the purposes of these Regulations, an offer of securities shall be regarded as a private offer if the offer is made to a person in Kenya under any of the following conditions—

Private offers.

- (a) the securities are offered to not more than one hundred persons who are specifically identified and the offer shall remain open for a continuous period not exceeding twelve months, and the offer shall not be repeated with wholly or partially different persons by the same entities or related parties, or ultimately for a common purpose, within a period of twenty-four months from the date of the first offer;
- (b) the securities are offered to the members of a club or association (whether or not incorporated) by or on behalf of that club or association, and the members can reasonably be regarded as having a common interest with each other and the club or association in its affairs and in what is to be done with the proceeds of the offer;

Provided that such club or association or interest has not been established, created or designed to defeat the mandate of the Authority to oversee public offers;

- (c) the securities are offered in connection with a valid invitation to enter into an underwriting agreement with respect to the securities;
- (d) the securities are of a private company and are offered by that company to—

- (i) shareholders or employees of the company; or
- (ii) members of the families of any such shareholders or employees;
- (e) the securities are of an unlisted public company and are offered by that company to shareholders of the company;
- (f) the securities are offered to a restricted circle of persons whom the offeror reasonably believes to be sufficiently knowledgeable to understand the risks involved in accepting the offer and the number of such persons does not exceed one hundred;
- (g) the securities are offered to the controlling shareholders, substantial shareholders or directors of the issuer or the issuer's parent or subsidiary companies or associates;
- (h) the securities result from the conversion of convertible securities in respect of which the Authority had already approved an information memorandum; or
- (i) the securities of a listed company are offered in connection with a take-over scheme approved by the Authority.

(2) For the purposes of subregulation (1)(d)(ii), the members of a person's family include a spouse, son, adopted son, step-son, son-in-law, daughter, adopted daughter, step-daughter, daughter-in-law, father, step-father, father-in-law, mother, step-mother, mother-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, grandchild or spouse of a grandchild of that person, and any trustee (acting in his or her capacity as such) of a trust the principal beneficiary of which is the person or any of the person's relatives.

(3) An offer made under this regulation shall be made only to a person whose name is recorded by the offeror prior to the invitation to subscribe, and that such person shall receive the offer by name, and that a complete record of any such offerees shall be kept by the company and submitted to the Authority on demand.

(4) The Authority may require the issuer in a private offer to submit a list of the targeted investors.

(5) An issuer offering securities under this regulation shall not issue any public advertisements or utilize any media, marketing or distribution channels or agents to inform the public, or capable of informing the public, about such an offer.

(6) An offer or invitation which does not comply with the provisions of this Part shall be a public offer, or a restricted public offer, as the case may be, and the provisions of these Regulations relating to public offers or restricted public offers shall apply to that offer or invitation.

**PART V—REQUIREMENTS FOR PUBLISHING INFORMATION
MEMORANDUM, SHORT FORM PROSPECTUS AND
INFORMATION NOTICE**

18. (1) A person shall not make an offer of securities to the public unless that person publishes an information memorandum in respect of the offer approved by the Authority or by a securities exchange in exercise of delegated authority.

Requirement for
information
memorandum.

(2) The issuer shall comply with any requirements of any law, including the Companies Act, 2015, regarding the registration of an information memorandum.

No. 17 of 2015.

(3) The issuer shall, during the offer period and for such additional period as may be prescribed by the Authority, make the information memorandum available to the public or to the section of the public to whom the offer is made free of charge.

(4) The issuer shall be deemed to have complied with the requirements of subregulation (3) if the issuer—

- (a) publishes the information memorandum on its official website;
- (b) publishes the information memorandum in a newspaper with a nation-wide circulation;
- (c) delivers the information memorandum to the respective electronic mail addresses of the offerees;
- (d) publishes the information memorandum in such other digital platform as may be approved by the Authority; or
- (e) publishes the information memorandum in any other manner as may be prescribed or approved by the Authority.

(5) An issuer shall deliver a copy of the approved and published information memorandum to the Authority and the securities exchange on or before the first day of the offer.

19. (1) An information memorandum shall include the following information—

Content of
information
memorandum.

- (a) a reporting accountant's report confirming that the issuer has complied with the financial disclosures prescribed under these Regulations with respect to the relevant market segment:

Provided that the reporting accountant's report shall be prepared by a different accountant from the one currently auditing the books of the issuer and it shall be sufficient for the reporting accountant's report to be issued by a different accountant within the same firm of accountants; and

- (b) a legal opinion which shall include the following details—
 - (i) the legal status of the issuer;

- (ii) whether all licences and consents required to carry on the business or proposed business of the issuer have been duly obtained;
- (iii) the validity of evidence of ownership of land, plant and equipment and other important and relevant assets of the issuer;
- (iv) any agreements or contracts regarding the proposed issue of securities including underwriting contracts or contracts with any securities exchange, registrar and trustees of bonds, debentures or other credit securities;
- (v) any material litigation, prosecution or other civil or criminal legal action in which the issuer or any directors of the issuer is involved;
- (vi) any contracts which have a material impact on the issuer's business and the public offer and listing of the issuer's securities;
- (vii) whether the existing capital of the issuer and any proposed changes thereto conforms with applicable laws and has received all necessary authorizations; and
- (viii) any other material information regarding the legal status of the issuer and the proposed issue.

20. (1) An information memorandum under regulation 19 shall, before publication, be signed—

Signing of
information
memorandum.

- (a) where an issuer which is a corporation, by each director or equivalent person of the issuer and each person who is named in the information memorandum as a proposed director or an equivalent person of the issuer;
- (b) where the issuer is the Government, state corporation or an entity duly established in Kenya by an official of the Government, state corporation or duly established entity who are duly authorized to sign the information memorandum; or
- (c) where the person making the offer is an individual but is not the issuer, by that person.

(2) The information memorandum shall be published in the English language.

21. (1) An issuer may, when obtaining approval of an offer, notify the Authority, and, where applicable, the securities exchange, that the offer shall be made electronically and include that fact in the information memorandum.

Electronic offers.

(2) The Authority may approve an electronic offering if satisfied that the technology to be used for such offer affords sufficient opportunity for each application to be treated fairly or equitably.

(3) The issuer in an electronic offer shall ensure that the information memorandum is disclosed in the same form and content approved by the Authority.

(4) The results of an electronic offer shall be published in the same manner as the information memorandum was published.

22. (1) An issuer of securities shall establish and disclose in the information memorandum a fair and equitable allocation policy for the allocation of the securities in a public offer.

Allocation policy.

(2) An issuer of securities shall establish mechanisms for sensitization of investors to invest in the issue of the issuer's securities.

(3) An issuer shall notify the Authority and, where there is a listing, the securities exchange at least twenty-four hours before the publication of the result of the offer.

23. (1) The content of an information memorandum shall comply with the—

Form and content of information memorandum.

- (a) Sixth Schedule, where the issuer seeks to raise capital and list in the Main Investment Market Segment;
- (b) Seventh Schedule, where the issuer seeks to list on the Main Investment Market Segment by way of introduction;
- (c) Eighth Schedule, where the issuer seeks to list and raise capital on the Small and Medium Enterprises Market Segment;
- (d) Ninth Schedule, where the issuer seeks to list on the Small and Medium Enterprises Market Segment by introduction;
- (e) Tenth Schedule, where the issuer seeks to list in the Main Fixed Income Securities Market Segment;
- (f) Eleventh Schedule, where the issuer seeks to list securities on the Small and Medium Enterprises Fixed Income Securities Market Segment; and
- (g) such other requirements as the Authority may prescribe or approve with respect to any other market segment or issue of securities for which the Authority has jurisdiction.

(2) Despite subregulation (1), the Authority may prescribe different disclosure requirements for an entity listed on a foreign securities exchange recognized by the Authority that is seeking to cross-list on a securities exchange in Kenya.

(3) Every information memorandum shall contain the following statement on its front page—

"As a matter of policy, the Capital Markets Authority [and the Securities Exchange] assumes no responsibility for the correctness of any statements or opinions made or reports contained in this information memorandum. Approval of the issue or listing is not to be taken as an indication of the merits of the issuer or of the securities."

24. (1) In addition to the information required to be disclosed under regulations 19 and 23, an information memorandum shall contain all such information as investors would reasonably require, and reasonably expect to find in the memorandum, for the purpose of making an informed assessment of—

Additional information in an information memorandum.

- (a) the assets, liabilities, financial position, profits, losses and prospects of the issuer of the securities; and
- (b) the rights attaching to the securities being offered.

(2) The additional information under subregulation (1) shall be such information as is within the knowledge of any person responsible for the information memorandum or which it would be reasonable for him or her to obtain by making diligent enquiries.

(3) In determining what information is required to be included in an information memorandum under this regulation, regard shall be had to the nature of the securities and offeror of the securities.

(4) The Authority and securities exchange may require additional information to be included in an information memorandum if it is in the interests of investors for such information to be in the information memorandum.

25. (1) Where an information memorandum has been approved under these Regulations in respect of a public offer and, at any time between the approval date and closing date of the offer—

Supplementary
information
memorandum.

- (a) there is a significant change that affects any matter contained in the information memorandum the inclusion of which was required by these Regulations;
- (b) a significant new matter arises the inclusion of information in respect of which would have been so required if it had arisen when the information memorandum was first prepared; or
- (c) a significant inaccuracy in the information memorandum, is discovered,

the offeror shall, on its own motion, with prior consent of the Authority or a securities exchange (where the Authority has delegated the approval function to a securities exchange, or if required by the Authority or a securities exchange (where applicable), publish a supplementary information memorandum containing particulars of the change or new matter or, in the case of an inaccuracy, correcting the inaccuracy, and deliver (if applicable) the supplementary information memorandum to the Registrar for registration.

(2) Where a supplementary information memorandum in respect of a public offer has been approved, these Regulations shall have effect as if any reference to an information memorandum is a reference to the information memorandum originally published and that supplementary information memorandum, taken together.

(3) The provisions of regulation 28 shall apply to a supplementary information memorandum.

26. Where, in the opinion of the Authority or the securities exchange, where applicable, circumstances have occurred or new information has emerged that fundamentally alters the basis of approval of a public offer before the allotment date in the case of an offer, or

Change of basis of
approval.

date of trading in the case of an introduction, which renders the information memorandum inadequate, the Authority may require the issuer—

- (a) to issue a supplementary information memorandum disclosing such additional information;
- (b) to extend the offer period to allow each investor to make an informed decision in light of the new disclosure;
- (c) to reopen the offer for such period as shall be determined by the Authority or securities exchange, as the case may be, to allow each investor to reconfirm the investor's application for subscription or withdraw the application; or
- (d) to cancel the offer and, where applicable, the listing.

27. The Authority may, upon application by the issuer, authorize the omission from an information memorandum of information whose inclusion would otherwise be required by these Regulations if the Authority considers that the disclosure of that information would be prejudicial to the interest of the offeror, but its omission does not prejudice the interest of investors.

Omission of
certain
information.

28. (1) An advertisement, notice, poster or document including an abridged information memorandum announcing a public offer or listing of securities for which an information memorandum is or will be required under these Regulations shall not be issued to or caused to be issued to the public in Kenya unless it states that an information memorandum is or will be published and provides a website or other electronic location or an address in Kenya where the information memorandum can be obtained.

Abridged
information
memorandum.

(2) An advertisement, notice, poster or document referred to in subregulation (1) shall be submitted to the Authority and securities exchange not later than forty-eight hours before the proposed publication, and the Authority or securities exchange may require such amendments to be made to the information memorandum as may be necessary.

(3) Each application form for subscription of the securities offered in an information memorandum shall state, in a conspicuous position, where the information memorandum may be obtained, and the issuer shall disclose to the Authority the number, if applicable, of physical copies of the information memorandum that have been printed.

(4) Each issuer shall publish an abridged information memorandum in the same manner as the issuer publishes the information memorandum.

(5) An abridged information memorandum shall disclose basic information regarding the issuer including—

- (a) a summary of the balance sheet, and profit and loss accounts for the three years immediately preceding the issue or such shorter period as may apply with respect to a particular market segment;

- (b) the broad ownership structure of the issuer before the issue and anticipated structure after the issue;
- (c) the particulars of the issue; and
- (d) any other material information regarding the issue.

29. (1) A person who intends to make a restricted public offer shall submit a short-form prospectus to the Authority for approval. Short form prospectus.

(2) The short-form prospectus shall be in the form set out in the Fourteenth Schedule and include—

- (a) the name of issuer;
- (b) a summary of description of business;
- (c) a summary of description of issue;
- (d) a disclosure of documents incorporated by reference in relation to the financial affairs of the entity or any significant matter as required for a full prospectus;
- (e) the number, price and type of securities;
- (f) conditions of the issue, if any;
- (g) a detailed schedule of use of the proceeds;
- (h) a description of securities and rights thereto;
- (i) completed and ongoing acquisitions in the preceding two years;
- (j) a description of any underwriting arrangement and if the underwriter has any conflict of interest;
- (k) any other material information; and
- (l) any other information that the Authority may direct.

30. (1) A person who intends to issue securities—

Information notice.

- (a) in the case of any issue or offer, other than a private offer, that may be exempted by the Authority from issuing an information memorandum or a short-form prospectus; or
- (b) in the case of a restricted public offer of securities where—
 - (i) the maximum amount which may be raised under the offer of securities is five hundred million shillings or such other amounts as may be prescribed by the Authority; or
 - (ii) the securities are denominated in such an amount or currency as the Authority may prescribe.

shall, in lieu of an information memorandum, deliver to the Authority and securities exchange before the opening of such offer an information notice.

(2) The information notice shall be in the form set out in the Fifteenth Schedule.

31. (1) The persons who, for the purposes of these Regulations, are responsible for an information memorandum are—

Persons responsible for the information memorandum.

- (a) the issuer of the securities to which the information memorandum relates;
- (b) where the issuer is a legal entity, each person who is a director or member of the relevant governing body of that legal entity at the time when the information memorandum is published;
- (c) where the issuer is a legal entity, each person who has given consent to be named and is so named in the information memorandum as a director or member of the relevant governing body of that legal entity at the date of the information memorandum or at a specified time in the future;
- (d) each person who accepts, and is stated in the information memorandum as having accepted, responsibility for any part of the information memorandum;
- (e) the offeror of the securities, where the offeror is not the issuer;
- (f) where the offeror is a body corporate, but is not the issuer and whether or not making the offer in association with the issuer, each person who is a director or member of the governing body of that body corporate at the time when the information memorandum is published; and
- (g) any other person who has authorised the contents of, or any part of, the information memorandum.

(2) Despite subregulation (1), a person shall not be responsible for an information memorandum—

- (a) under subregulation (1) (a), (b) or (c), unless the issuer has made or authorized the offer in relation to which the information memorandum is published; or
- (b) under subregulation (1) (b), if such information memorandum is published without that person's knowledge or consent and on becoming aware of its publication, the person gives reasonable notice to the public and the Authority that the information memorandum was published without that person's knowledge or consent.

(3) Where a person has accepted responsibility for, or authorised, part of the contents of an information memorandum, that person shall be responsible under subregulation (1) (d) or (g) only for that part and only if it is included substantially in the form and context that the person has agreed.

PART VI—TRANSACTION ADVISORS AND COMPLIANCE OFFICERS

32. (1) An entity proposing to offer securities to the public or list securities in any market segment shall appoint a transaction advisor.

Transaction advisors.

(2) A transaction advisor shall take all reasonable and effective measures to avoid or deal with any conflicts of interest that may arise in the discharge of the transaction advisor's duties.

(3) A person is not eligible for appointment as a transaction advisor unless such a person is an investment bank or an investment adviser licenced by the Authority.

(4) A transaction advisor appointed under subregulation (1) shall be responsible for ensuring that the offer of securities and listing is made in accordance with the Act and these Regulations.

33. (1) An issuer shall, after the issuance or listing of the issuer's securities, appoint, engage or designate a person to be the issuer's compliance officer.

Compliance
officers.

(2) A compliance officer shall—

- (a) support the issuer to comply with the Act, these Regulations and any relevant written law during the period that the issuer's securities are listed;
- (b) review, before publication, all financial information announcements, and any other documentation to ensure that the announcements or documentation accurately disclose all material information to shareholders and the market;
- (c) submit all required documents to the securities exchange and ensure that the documents comply with the continuing disclosure obligations;
- (d) take all reasonable steps to brief the members of the board of directors of the issuer as to the nature of the directors' responsibilities under the continuing disclosure obligations, other applicable regulations and general nature of the directors' obligations in relation to holders of securities;
- (e) ensure that all new appointments to the board of directors of the issuer are complete;
- (f) ensure that the members of the board of directors of the issuer undertake training in corporate governance and the Directors Training Programme within six months after being appointed;
- (g) attend all board audit committee meetings of the issuer in an advisory capacity to ensure that the issuer conducts its meetings in compliance with the continuing listing obligations; and
- (h) carry out any activities relating to the issuer as may be requested by the securities exchange.

(3) Each transaction adviser and compliance officer shall, in the discharge of their responsibilities under these Regulations, observe due care and skill and ensure that they observe the highest level of integrity in their conduct and judgment.

PART VII- UNDERWRITING AND VALUATION OF SECURITIES

34. (1) Where an issuer decides to have its public offer underwritten, it shall disclose the underwriting arrangement to the Authority before entering into the arrangement.

Underwriting of offers to the public.

(2) The issuer shall disclose the facts and particulars of the underwriting arrangement in the information memorandum.

(3) Where the underwriter is a person related or associated with the issuer, the underwriter shall undertake to the Authority to dispose of any securities arising from the underwriting agreement within a period determined by the issuer and approved by the Authority.

(4) The Authority may extend the period referred to in subregulation (3) if such extension is in the best interest of the holders of the securities of the issuer, having regard to the prevailing market conditions and any other factors that are relevant in the circumstances.

(5) Where the Authority extends the period in accordance with subregulation (4), the issuer shall publicly disclose the period of such extension, any conditions attached to the extension and the circumstances necessitating the extension, in the same manner as the information memorandum was published.

35. (1) A person who proposes to make a public offer may use a book-building process in accordance with the Sixteenth Schedule to determine the price of the securities.

Valuation of securities.

(2) Despite subregulation (1), a person who proposes to make a public offer may also determine the price of the securities in accordance with International Valuation Standards.

(3) The issuer shall disclose to the Authority the valuation methodology used to determine the price of securities in a public offer at the time of the application to the Authority to issue the securities.

PART VIII- GREEN SHOE OPTION

36. (1) An issuer making a public offer of securities may provide a green shoe option in order to benefit from the demand for the securities if there is an oversubscription or to stabilise the post-listing price of the securities:

Green Shoe options.

Provided that—

- (a) the issuer has been authorized to include the green shoe option by a resolution passed in a duly constituted meeting of members of the issuer, which resolution shall specify the purpose for the green shoe option;
- (b) the information memorandum shall contain all material disclosures about the green shoe option including the securities to be offered in the green shoe option which shall not exceed thirty per cent of the specified offer amount and the use of the proceeds of the green shoe option, in particular, the information memorandum shall contain the following additional disclosures where applicable—

- (i) the maximum number of securities, in number and as a percentage of the proposed issue size, proposed to be over-allotted by the issuer;
 - (ii) the maximum increase in the equity share capital of the issuer and the shareholding pattern, post-issue, in case the issuer is required to allot further equity shares to the extent of over-allotment in the issue;
 - (iii) the maximum amount of funds to be received by the issuer in case of further allotment, and the use of the additional funds shall be disclosed in the offer document;
 - (iv) the name of the stabilizing agent;
 - (v) the period for which the issuer proposes to avail of the stabilization mechanism;
 - (vi) the details of the agreement or arrangement entered into by the stabilizing agent with the promoters or shareholders to borrow equity shares from the latter including the name of each promoter or shareholder, their existing shareholding in the issuer, the number and percentage of equity shares to be lent by them and other important terms and conditions including rights and obligations of each party; and
 - (vii) the number of equity shares to be allotted pursuant to the public issue, stating separately the number of equity shares to be borrowed from each promoter or shareholder and over-allotted by the stabilizing agent and the percentage of such equity shares in relation to the total issue size; and
- (c) with respect to a green shoe option for the purposes of stabilizing the price—
- (i) the issuer has appointed an investment bank or an underwriter as a stabilizing agent, who shall be responsible for the price stabilization process;
 - (ii) before lodging the offer documents with the Authority, the issuer and the stabilizing agent shall have entered into an agreement, stating the terms and conditions relating to the green shoe option including fees charged and expenses to be incurred by the stabilizing agent for discharging its responsibilities, and such agreement shall have been delivered to the Authority;
 - (iii) before lodging the offer documents with the Authority, the stabilizing agent shall have entered into an agreement with the promoters or pre-issue shareholders or both for borrowing specified securities from them in accordance with paragraph (vi);

- (iv) the agreement shall specify the maximum number of specified securities that may be borrowed for the purpose of allotment or allocation of specified securities in excess of the issue size (over-allotment), which shall not exceed thirty per cent of the issue size;
- (v) subject to paragraph (iii), the transaction adviser, in consultation with the stabilizing agent, shall determine the amount of specified securities to be over-allotted in the public issue;
- (vi) in the case of an initial public offer pre-issue shareholders and promoters, and in case of a further public offer pre-issue shareholders holding more than five per cent of specified securities, and promoters may lend specified securities to the extent of the proposed over-allotment; and
- (vii) the specified securities borrowed shall be in dematerialized form and allocation of the securities shall be made pro-rata to each successful applicant.

(2) For the purpose of the stabilization of the post-listing price of the securities, the stabilizing agent shall determine the relevant aspects including the timing of buying or selling such securities, quantity to be bought or sold and the price at which such securities may be bought or sold in the market.

(3) The stabilization process shall be available for a period of not more than thirty days from the date on which trading in the securities in the secondary market of the securities exchange commences.

(4) The stabilizing agent shall open a special account with a licensed bank for crediting any monies received for the over-allotment and a special account with a central depository agent for crediting specified securities to be bought from the market during the stabilization period out of the monies credited in the special bank account.

(5) On expiry of the stabilization period, if the stabilizing agent has not been able to buy specified securities from the market to the extent of such securities over-allotted, the issuer shall allot specified securities at issue price to the extent of the shortfall to the special account with the central depository agent.

(6) The allotment in subregulation (5) shall be done within five days after the date of the closure of the stabilization period.

(7) The specified securities referred to in subregulation (5) shall be returned to the promoters or pre-issue shareholders by the stabilizing agent in lieu of the specified securities borrowed from them and the account with the central depository agent shall be closed thereafter.

(8) The issuer shall make a listing application in respect of the further specified securities allotted under subregulation (9), to the relevant securities exchange where the specified securities allotted in the public issue are listed.

(9) The stabilizing agent shall remit the monies with respect to the specified securities allotted under subregulation (7) to the issuer from the special bank account.

(10) Any monies left in the special bank account after remittance of monies to the issuer under subregulation (11) and deduction of expenses incurred by the stabilizing agent for the stabilization process shall be transferred to the Investor Compensation Fund established under the Act and the special bank account shall be closed soon thereafter.

(11) The stabilizing agent shall submit a report to the securities exchange on a daily basis during the stabilization period and a final report to the Authority containing the following particulars—

- (a) the name of the issuer;
- (b) the name of the stabilizing agent;
- (c) the issue size being number of equity shares;
- (d) the issue open date;
- (e) the issue closure date;
- (f) over-allotment in issue expressed as a percentage;
- (g) the date of commencement of trading;
- (h) the amount in the Green Shoe Option Bank Account in shillings;
- (i) the details of each promoter from whom shares were borrowed (name and number of shares borrowed);
- (j) the date on which the stabilization period ended;
- (k) the number of shares bought during the stabilization period;
- (l) the date on which issuer allotted further shares to the extent of shortfall;
- (m) the date when the shares were returned to each promoter;
- (n) the date when the money in the Green Shoe Option Bank Account was remitted to the issuer;
- (o) the details of the depository account (Special account for Green Shoe Option securities) where shares purchased from the market were kept including—
 - (i) the name of the central depository agent;
 - (ii) the account number;
 - (iii) the number of shares purchased and the dates of the purchases; and
 - (iv) the number of shares taken out and the date they were taken out;
- (p) the details of amount transferred to the Investor Compensation Fund in shillings; and

- (q) such other information as the Authority may require to be included in the report.

(12) The stabilizing agent shall maintain a register for at least three years from the date of the end of the stabilization period containing particulars including the price, date and time in respect of each transaction effected in the course of the stabilization process, the details of allotment made by the issuer on expiry of the stabilization process, and any other information that the Authority may prescribe.

(13) In this regulation, "stabilizing agent" means an entity, in most cases a transaction advisor, specifically appointed by the potential initial public offer issuer to stabilise post-initial-public-offer share prices by way of purchasing under-priced shares and selling overpriced shares.

PART IX—SHELF PROSPECTUSES

37. (1) An issuer who satisfies the criteria set out in regulation 38 may submit to the Authority a shelf prospectus for approval which shall indicate a period not exceeding two years as the period of validity of such prospectus commencing on the date of opening of the first offer of securities under the prospectus and, in respect of a second or subsequent offer of such securities issued during the period of validity of the prospectus, no further prospectus shall be required.

Issuing of shelf prospectuses.

(2) An issuer who has submitted a shelf prospectus under subregulation (1) shall be required to publish a supplementary offering note containing all material changes in the business and financial position of the issuer occurring between the first offer of securities or the previous offer of securities and the succeeding offer of securities and such other changes as may be prescribed, within the prescribed time, prior to the issue of a second or subsequent offer of securities under the shelf prospectus:

Provided that where an issuer or any other person has received an application for the allotment of securities and advance payments of subscription before the making of any such change, the issuer or that other person shall notify the changes to such an applicant and if the applicant notifies the issuer or that other person a desire to withdraw the application, the issuer or that other person shall refund the payments received as subscription within fifteen days after the notification.

(3) Where a supplementary offering note is published, each time an offer of securities is made under this regulation, the supplementary offering note and the shelf prospectus shall be deemed to be the shelf prospectus.

38. (1) A shelf prospectus published under regulation 37 may only be issued and published by a legal entity, whether listed or not—

Qualification to issue shelf prospectuses

- (a) that has net assets of at least five hundred million shillings as at the date of the last audited balance sheet;
- (b) that has a consistent track record of distributable profit for the preceding three years;

- (c) that has no regulatory action pending against it before any regulatory authority including the Authority, Central Bank of Kenya or Insurance Regulatory Authority; and
- (d) that is not in default of any material obligation including the payment of debts as they fall due and payment of dividends or repayment of any loans, and has not been in such default in the preceding three financial years.

(2) Each shelf prospectus shall comply with the disclosure requirements for public offers of securities for the relevant market segment under these Regulations.

(3) Not more than five issuances of securities may be made through a single shelf prospectus.

PART X- SPECIAL PURPOSE ACQUISITION COMPANIES

39. (1) The special purpose acquisition company that intends to be listed shall be a body corporate that is duly incorporated or registered under the Laws of Kenya.

Incorporation
status.

(2) A special purpose acquisition company shall not carry on any commercial or business operation before applying to the securities exchange for listing.

40. (1) An issuer applying for listing of its equity securities on the Main Investment Market Segment or Small and Medium Enterprises Market Segment must be suitable for listing and is not permitted to adopt a dual class share structure at an initial public offer.

Qualitative and
Quantitative
criteria.

(2) In assessing the suitability of the special purpose acquisition company under subregulation (1), the Authority may take into account any relevant factor including—

- (a) the business objective and strategy of the issuer;
- (b) the profile including the track record and repute of the founding shareholders, and experience and expertise of the management team of the issuer;
- (c) the alignment of interests of the founding shareholders and management team with the interests of other shareholders, including potential losses and returns to the founding shareholders and the management team, and other shareholders;
- (d) the sufficiency of gross proceeds to be raised from the special purpose acquisition company initial public offering to undertake a business combination which will—
 - (i) enable the issuer to have an identifiable core business with sufficient size and scale; and
 - (ii) offer reasonable returns to shareholders based on the equity capital employed;
- (e) the proportion of rewards to be enjoyed by the founding shareholders and management team as compared to the expected and timing of shareholder value creation;

- (f) the quantum of discount to the special purpose acquisition company initial public offering issue price at which securities of the issuer are issued to the founding shareholders and the management team, if any;
- (g) the intended use of the special purpose acquisition company initial public offering proceeds that have not been placed in the escrow account;
- (h) the dilutive features and events which may impact shareholders, and whether there is any mitigation for such dilution; and
- (i) the escrow arrangements governing the funds in the escrow account.

(3) For avoidance of doubt, the discount contemplated in subregulation (1)(f) shall not result in a price that is lower than the nominal value of the securities or a price lower than fifty per cent of the price of the securities issued to the other shareholders.

41. (1) The issuer shall, immediately upon listing on the securities exchange, place at least ninety per cent of the gross funds raised from the initial public offer in an escrow account opened with and operated by an independent escrow agent and which is part of a financial institution licensed and approved by the Central Bank.

Special purpose acquisition company initial public offering proceeds and escrow requirements.

(2) The amount placed in the escrow account under subregulation (1) shall not be drawn down except for the purpose of the business combination, or liquidation of the issuer, or such other circumstances as specified in these Regulations.

(3) The escrow agent appointed under subregulation (1) shall be independent of the founding shareholders, management team, and associates of the founding shareholders and management team.

(4) The issuer shall secure and maintain the escrow arrangement at all times over the funds in the escrow account until the termination of the escrow account in accordance with subregulation (6).

(5) The issuer shall hold its assets in permitted investments until completion of a business combination that meets the Authority's requirements.

(6) The escrow agreement governing the escrowed funds shall provide for—

- (a) the termination of the escrow account and release of the escrowed funds on a pro rata basis to shareholders who exercise their redemption rights and the remaining escrowed funds to the issuer, if the issuer completes a business combination within the permitted time frame; and
- (b) the termination of the escrow account and distribution of the escrowed funds to shareholders (other than the founding shareholders, management team, and associates of shareholders and management team in respect of all equity

securities owned or acquired by them prior to or pursuant to the initial public offering).

(7) The special purpose acquisition company initial public offering proceeds that are not placed in the escrow account, and any interest or other income earned on the escrowed funds from permitted investments, may be applied—

- (a) as payment for administrative expenses incurred by the issuer in connection with the initial public offer;
- (b) for general working capital expenses; and
- (c) for the purpose of identifying and completing a business combination.

(8) The issuer shall be required to account to the issuer's shareholders and Authority on the use of the special purpose acquisition company initial public offering proceeds upon the completion of the business combination.

42. Where any convertible securities are issued in connection with the special purpose acquisition company initial public offering, the securities shall comply with the following requirements—

Issuer of convertible securities.

- (a) only one class of convertible securities shall be permitted at a time;
- (b) the conversion price of the convertible securities shall not be lower than the price of the ordinary shares offered for the special purpose acquisition company initial public offering;
- (c) the convertible securities are non-detachable from the ordinary shares and shall not be exercisable before the completion of the business combination;
- (d) the convertible securities shall not have an entitlement to the funds held in the escrow account upon liquidation of the issuer or redemption of the ordinary shares by shareholders who have voted against the business combination; and
- (e) the tenure of the convertible securities shall expire on the earlier of the maximum tenure under the issuance terms as stated in the prospectus issued in connection with the issuer's special purpose acquisition company initial public offering or permitted time frame for completion of a business combination where no business combination is completed within such time period.

43. (1) The Authority may, before the completion of a business combination, permit the issuer to raise additional funds through the issue of securities where—

Authority may permit issuer to raise additional funds.

- (a) the issuance is made on a pro rata basis and in accordance with the requirements of this Part;
- (b) at least ninety per cent of the gross proceeds raised are placed in escrow; and

- (c) the proceeds raised are for the purpose of financing the business combination or related administrative expenses:

Provided that the special purpose acquisition vehicle's intention to raise additional funds shall be disclosed in the information memorandum at the time of listing or, if not disclosed, the special purpose acquisition vehicle obtains approval from the shareholders to raise additional funds.

(2) The issuer shall not be permitted to obtain any form of debt financing other than those simultaneous with or after completion of its business combination:

Provided that the —

- (a) funds in the escrow account shall not be used as collateral or subject to encumbrance for the debt financing; and
- (b) funds drawn down from the debt financing shall be applied towards the financing of the business combination or related expenses.

(3) A credit facility may be entered into before the completion of a business combination and, if so entered into, shall be drawn down simultaneously with, or after completion of, a business combination.

(4) For the purposes of this regulation, "debt financing" does not include short term trade or accounts payables in the ordinary course of business.

44. The Authority shall not permit the issuer to adopt any security-based compensation arrangement prior to the completion of a business combination.

Security-based compensation arrangements not permitted.

45. (1) The issuer shall be required to complete a business combination within twenty-four months from the date of listing of the special purpose acquisition company initial public offering.

Additional continuing listing requirements before completion of business combination.

(2) Where the business combination comprises of more than one acquisition, the issuer shall be required to complete the acquisitions simultaneously on or around the same day, and each of the acquisitions shall be in separate and inter-conditional resolutions.

(3) A business combination under this regulation may be in the form of a merger, share exchange, asset acquisition, share purchase, reorganization, or such other similar business combination, in accordance with the business strategy and acquisition mandate disclosed in the prospectus issued in relation to the special purpose acquisition company initial public offer.

(4) The issuer may apply to the Authority for an extension of time, which may not exceed twelve months, to complete the business combination and specifically obtain the approval of a majority of at least seventy-five per cent of the votes cast by independent shareholders at a general meeting to be convened.

(5) An extension of time under subregulation (4) may be permitted under exceptional circumstances and any application for the extension of time shall be submitted to the Authority at least one month before the expiry of the permitted time frame.

(6) For the purpose of voting on the extension of time to complete the business combination, the founding shareholders, the management team, and their associates, shall not be considered to be independent of one another.

(7) The Authority may reject an application for extension of time if the Authority determines that there is no reasonable justification for the application or it is in the interests of the public to do so.

(8) The initial business or asset acquired pursuant to the business combination shall have a fair market value of at least eighty per cent of the amount in the escrow account at the time of entry into the binding agreement for the business combination transaction, but shall not include any amount held in the escrow account representing deferred underwriting fees and any taxes payable on the income earned on the escrowed funds.

46. Where the special purpose acquisition company concludes multiple concurrent acquisitions or mergers as part of the business combination, there must be at least one initial acquisition which satisfies the requirement of having a fair market value constituting at least eighty per cent of the amount held in the escrow account at the time of entry into the binding agreements for the business combination transactions, and such concurrent transactions must be inter-conditional and completed simultaneously within the permitted time frame.

Multiple
concurrent
acquisitions or
mergers.

47. (1) The issuer shall appoint —

Issuer to appoint
advisors and
valuers.

(a) a transaction advisor, who is an issue manager, to advise on the business combination; and

(b) a competent and independent valuer to value the business or asset to be acquired under the business combination.

(2) A valuation under subregulation (10)(b) shall be conducted in accordance with International Valuation Standards and a summary valuation report shall be included in the shareholders' circular in relation to the business combination.

48. (1) The business combination shall result in the issuer having an identifiable core business of which it has a majority ownership or management control.

Business
combination to
result in
identifiable core
business.

(2) The Authority may consider a business combination involving an acquisition of a minority stake in the business or asset, where the issuer can demonstrate that it has management control of such business or asset.

(3) The business combination must be respectively approved by a simple majority of independent directors, and an ordinary resolution passed by independent shareholders at a general meeting to be convened.

(4) For the purpose of voting on the business combination under subregulation (3), the founding shareholders, management team, and their associates, shall not be considered to be independent of each other.

(5) The shareholders' circular in relation to the business combination must contain an opinion from an independent financial adviser stating that the terms of the transaction are on normal commercial terms and are not prejudicial to the interest of the issuer and its minority shareholders.

(6) Each independent shareholder (other than the founding shareholders, the management team, and their respective associates and independent shareholders who vote for the business combination) voting against the business combination shall be entitled to redeem their ordinary shares, on a pro rata basis, of the amount in the escrow account at the time of the business combination vote, provided that the business combination is approved and completed within the permitted time frame.

(7) The redemption amounts with respect to the shares to be redeemed pursuant to subregulation (6) shall be paid to the electing independent shareholder as soon as practicable upon completion of the business combination, and shares tendered in exchange for cash shall be cancelled.

(8) Any convertible securities attached to redeemed shares shall cease and become null and void.

49. (1) Before completion of the business combination, in the event a material change occurs in relation to the profile of the founding shareholders or the management team which may be critical to the successful founding of the issuer or successful completion of the business combination, the issuer shall seek approval of a majority of at least seventy-five per cent of the votes cast by independent shareholders at a general meeting to be convened for the continued listing of the issuer on the Securities Exchange.

Business combinations.

(2) For the purpose of voting on the continued listing of the issuer under subregulation (1), the founding shareholders, management team, and their associates, shall not be considered to be independent of each other.

(3) The Authority may declare a circumstance to be a material change under this regulation.

(4) The issuer shall be liquidated where it—

- (a) fails to complete a business combination within the permitted time frame;
- (b) fails to obtain specific shareholders' approval; or
- (c) is directed to delist by the Authority before the completion of a business combination.

(5) The amount held in the escrow account at the time of the liquidation distribution and such other accounts held by the issuer, net

of taxes payable and direct expenses related to the liquidation distribution, shall be distributed to shareholders on a pro rata basis as soon as practicable, as permissible by the relevant laws and regulations.

(6) Any interest, income derived and deferred underwriting commissions accrued in the escrow account will form part of the liquidation distribution.

(7) The founding shareholders, management team, and their associates shall waive their right to participate equally in the liquidation distribution in respect of all equity securities owned or acquired by them prior to or pursuant to the special purpose acquisition company initial public offering and shall only be entitled to participate in such distribution only after the other shareholders have received their relevant share of the liquidation proceed.

(8) The underwriters of the special purpose acquisition company initial public offering shall waive their rights to any deferred underwriting commissions deposited in the escrow account in the event the issuer liquidates prior to completion of the business combination.

50. The Authority shall order the delisting of the issuer's securities on or about the date on which the liquidation distribution is completed where the issuer fails to—

Liquidation of special purpose acquisition companies.

- (a) complete a business combination within the permitted time frame; or
- (b) obtain specific shareholders' approvals.

51. The Authority shall determine whether the continued listing of the resulting issuer after completion of the business combination will be in the best interests of the Authority, securities exchange and public, and may suspend, direct the commencement of the liquidation distribution and delist the issuer's securities before the completion of the business combination.

Delisting of special purpose acquisition companies for failure to complete business combinations.

52. Where a special purpose acquisition company seeks to list on a securities exchange, or is seeking shareholders' approval for a business combination, the offering memorandum or the introductory document or the shareholders' circular shall comply with the disclosure requirements as may be prescribed by the Authority.

Authority to consider whether continued listing is in the best interest of the authority and public
Continuing obligations for special purpose acquisition companies.

53. The continuing obligations set out in the Thirteenth Schedule shall apply to a special purpose acquisition company issuer after the date of the business combination.

PART XI- SHARE BUYBACKS

54. (1) This Part sets out the requirements that apply to a listed company that intends to undertake a share buyback.

Scope.

(2) A listed company that intends to buy back its shares shall comply in full with the provisions of the Companies Act, 2015, Capital Markets Act and these Regulations

No. 17 of 2015.
Cap. 485A.

55. (1) A listed company may only buy back its shares if the Articles of Association of the listed company provide for share buybacks.

Listed company may buy back shares.

(2) A proposal to buy back the shares of a listed company shall be recommended by a resolution of the board of directors and approved by a resolution of shareholders of the company in a general meeting of shareholders before the share buyback is undertaken.

(3) A proposal to the company's shareholders to buy back shares under subregulation (2) shall be through a circular which shall specify the terms and conditions of the proposal

(4) The circular shall satisfy the following conditions before it is circulated to shareholders—

- (a) it shall have been approved by the Authority in accordance with these Regulations; and
- (b) it shall have been submitted to the securities exchange on which the share buyback transactions shall be undertaken.

56. A shareholders' resolution regarding a share buy-back proposal shall specify—

Shareholders' resolution.

- (a) the number of shares or percentage of shares, and description and classes of the shares which the listed company has been authorised to buy back;
- (b) the dates on which the authority conferred by the shareholders' resolution shall commence and expire;
- (c) the maximum funds to be allocated by the listed company for the share buy-back on the basis, other than reference to any person's discretion or opinion, or formula for determining the maximum funds that are to be allocated;
- (d) whether the shares are proposed to be cancelled or retained as treasury shares, or both and, if available, information as to the percentage or number of shares purchased which are to be retained or cancelled; and
- (e) whether the shares will be bought back off-market or on-market.

57. (1) The shareholders' circular on a share buy-back proposal shall disclose all material information that the shareholders of the listed company and the shareholders' professional advisers would reasonably require or expect to be informed about in order to make an informed decision on the proposed share buy-back transaction.

Shareholders' circular.

(2) Despite the generality of subparagraph (1), the shareholders' circular shall contain the following information—

- (a) a heading drawing attention to the importance of the circular and advising holders of shares to consult appropriate independent advisers regarding the proposal;

- (b) a statement that the Authority or securities exchange, as the case may be, is not responsible for the contents of the circular, makes no representation as to the accuracy or completeness of the circular, and is not liable for any loss howsoever arising from or in reliance on the whole or any part of the contents of the circular;
- (c) the reasons for the share buyback;
- (d) the class and number of shares that are intended to be bought back;
- (e) the method of undertaking the share buy-back including whether or not the buy-back shall be undertaken —
 - (i) through open market repurchase programmes executed through tender offers or over a period of time; or
 - (ii) through on-market (exchange) or off-market purchases;
- (f) the treatment by the listed company of the shares to be bought back including —
 - (i) whether or not the shares bought back shall be held in treasury or shall be cancelled; and
 - (ii) where the shares that have been bought back are intended to be held in treasury, the listed company shall disclose the current and future treatment of those treasury shares;
- (g) the price-per-share intended to be paid by the listed company, specifying the maximum and minimum prices of the shares, and a detailed explanation supporting the prescribed price including valuation reports;
- (h) the mode of financing the share buyback either being the proceeds from a fresh issue of shares or out of distributable profits of the listed company;
- (i) whether or not consent for the share buyback has been obtained from other relevant parties including bondholders, regulators and creditors;
- (j) a declaration by the directors regarding the company's solvency or liquidity, based on the company's latest audited financial statements, that is sufficient to undertake the share buy-back including a statement that on the date of the shareholder circular —
 - (i) the assets of the listed company are fairly valued;
 - (ii) the assets of the listed company are equal to or exceed the liabilities of the listed company; and
 - (iii) the listed company shall be able to pay its debts as they come due in the ordinary course of business for a period of twelve months following the share buyback;

- (k) the potential impact of the proposed share buyback on the shareholding structure of the listed company;
- (l) the risk factors and assumptions of the share buyback transaction;
- (m) any related party transaction or director's interest in the share buyback transaction;
- (n) the impact of the share buyback on the listed company's financial position;
- (o) the number of shares held directly and indirectly by the directors and substantial shareholders;
- (p) the direct and indirect interests of the directors and major shareholders and any person connected with the directors or major shareholders in the proposed purchase of shares or resale of treasury shares;
- (q) the potential advantages and disadvantages of the proposed share buyback to the listed company and its shareholders;
- (r) a statement by the board of directors that the proposal is in the best interest of the listed company and reasons thereof;
- (s) the period during which the shareholders' approval for the share buyback shall be valid; and
- (t) any other relevant information regarding the proposed share buyback transaction.

58. If a listed company intends to buy back its shares through off-market purchases, that company shall submit to the Authority for approval—

Off-market purchases to be approved by Authority.

- (a) the draft share buyback contract in line with the requirements for private transactions; and
- (b) the shareholders' circular.

59. (1) A listed company that intends to buy back its shares shall publish, within twenty-four hours after the board's resolution approving the share buy-back, and with the approval of the Authority, a public announcement of the intended share buyback in accordance with Part XIV of these Regulations.

Publication of notices.

(2) The listed company shall submit the published public announcement to the securities exchange and the exchange shall publish the announcement on its website.

(3) The announcement under subregulation (1) shall contain material information on the share buyback including—

- (a) the method of effecting the share buyback (on-market (exchange) purchase or off-market purchase);
- (b) the minimum and maximum prices of the shares to be bought back;

- (c) the treatment of shares by the listed company after they are bought back;
- (d) the percentage of the shares to be bought back as a proportion of the issued share capital of the listed company; and
- (e) the transaction advisers advising the listed company in the share buyback transaction.

(4) The announcement under subregulation (1) shall contain a statement that the listed company shall provide the shareholders with a circular on the proposed share buyback seeking the shareholders' approval after the circular on the share buy-back has been approved by the Authority.

60. If a listed company intends to buy back its shares through on-market (exchange) purchases—

On-market
(exchange)
purchases.

- (a) the maximum share buyback price of the shares to be purchased shall be ten per cent above the weighted price average of the shares during the period of thirty days before the day of the board resolution approving the share buyback; and
- (b) the minimum share buyback price of the shares to be purchased shall be the nominal price of the shares or the prevailing market price, whichever is higher, on the date of the board resolution approving the share buyback.

61. A proposal by a listed company to buy back its shares shall not reduce or contravene the minimum capital and free float requirement for continued listing of the company in the respective market segment under these Regulations and any other additional free float requirements that may be introduced by the Authority.

Minimum capital
and free float
requirement.

62. (1) If a proposal to buy back shares relates to a class of shares of the listed company, the shares to be bought back by the company shall not exceed ten per cent of the total issued shares of that class in a given financial year:

Class of shares
and treatment of
treasury shares.

Provided that the Authority may waive this limit on the written application of the listed company.

(2) If a listed company opts to keep the shares bought back in treasury, the treasury shares shall not exceed ten per cent of the total issued shares of that class.

(3) Where a listed company proposes to sell treasury shares, including any transfer to an employee share ownership scheme of the company, the company shall, before selling or transferring the treasury shares, seek the approval of the company's shareholders and Authority in accordance with these Regulations.

63. (1) The volume of the shares bought back by a listed company on any single day in a share buy-back transaction shall not exceed twenty-five per cent of the total trading volume of the issuer or such other limit as may be prescribed by the Authority by notice.

Volume of shares
to be purchased in
a share buy-back
transaction.

- (2) The limit prescribed under subregulation (1) —
- shall be based on the liquidity of the shares in the market of the average daily trading volume for the four calendar weeks preceding the week of the purchase; and
 - shall not be executed as to significantly adversely affect the liquidity of the shares in question.
- (3) The share buyback shall not be effected during the pre-open session of the trading of the shares of the listed company.
64. (1) A listed company that undertakes a share buy-back shall disclose to the securities exchange the details of the buy-back transaction immediately after buying back the shares and such disclosure shall be published on the security exchange's website.
- (2) The disclosure under subregulation (1) shall include information on the listed company, number of shares that have been bought back, price per share of the shares that have been bought back, and percentage of the free float after the shares have been bought back.
65. A listed company shall —
- complete the share buyback within eighteen months from the date of the shareholder resolution approving the share buy-back proposal; and
 - separate share buyback programmes by a period of twelve months.
66. (1) A listed company intending to purchase its own shares or resell treasury shares on the securities exchange may appoint one or more stockbrokers for that purpose.
- (2) The listed company must ensure that all dealings in the company's shares or treasury shares are made through the stockbrokers appointed under subregulation (1).
- (3) A listed company shall lodge a notice of the appointment of the stockbrokers concerned with the securities exchange immediately and open one securities account in the company's name with such stockbrokers which shall be designated as "Share Buyback Account" used solely for the purchase of the company's own shares or resale of treasury shares.
67. (1) A listed company shall not undertake a share buyback transaction —
- during the period of fourteen days before the publication of the company's half-yearly or annual financial statements; or
 - after it has become aware of any material information which has not been made public which, if disclosed, could affect the price of the company's shares.
- (2) A share buyback transaction may be cancelled or suspended if —

Disclosure to the securities exchange.

Duration of buy-back programme.

Appointment of stockbrokers.

Prohibition, cancellation or suspension.

- (a) material information is announced during the period of fourteen days before the buyback being conducted; or
- (b) if the listed company deems it fit in the circumstances.

(3) The cancellation or suspension of a buyback transaction shall be done within a reasonable time before the effective date of the buyback transaction.

68. (1) A listed company that undertakes a share buy-back transaction shall submit to the Authority or securities exchange, as the case may be, once in each day a report on the share buy-back transaction undertaken during that day and the treatment of the shares acquired by the listed company including a report on the price and volume of shares bought back, treasury shares sold and cancellation of the shares, where applicable.

Reporting and disclosures.

(2) A listed company that undertakes a share buyback transaction shall disclose in its annual report any share buyback transaction undertaken in the year to which the report relates and the treatment by the company of the shares bought back.

69. If, after a share buy-back, the listed company that buys back its shares proposes to de-list its shares from the securities exchange or the company is converted to a private company—

De-listing and conversion to private company.

- (a) the directors of the listed company and any person acting in concert with the directors shall not be considered to be independent and shall not be entitled to vote at the meeting of shareholders convened to approve the share buyback proposal; and
- (b) the share buyback proposal shall require to be approved by—
 - (i) at least seventy-five per cent of the votes attached to the shares owned by independent shareholders that are cast, whether in person or by proxy, at a duly convened general meeting; and
 - (ii) the number of votes cast against the resolution shall not be more than ten per cent of the votes attached to the shares owned by independent shareholders.

70. If a share buy-back transaction triggers the percentage shareholding limits that may lead to a takeover of the listed company, the Capital Markets (Takeovers and Mergers) Regulations, 2002, shall apply.

Takeovers and mergers.

71. (1) A listed company shall comply with the corporate governance requirements, listing obligations and all relevant written laws and Regulations of Kenya as may be applicable during the share buyback process.

Compliance with applicable laws and Regulations.

(2) A listed company undertaking a share buyback shall ensure that it, its directors, shareholders, connected persons, and persons acting in concert with the company or its directors, do not commit any offences relating to market abuse or insider dealing during the share

buyback.

PART XII—TRADING HALT, SUSPENSION AND DELISTING

72. (1) A securities exchange may, at any time, with the approval of the Authority, grant a trading halt or suspend trading of the listed securities of an issuer. Trading halt.

(2) A trading halt or suspension of trading of listed securities may also be granted at the request of the issuer or at the direction of the Authority:

Provided that where the request is made by the issuer, the securities exchange shall not be obligated to honour the request.

(4) A trading halt—

- (a) shall not exceed one trading session at any one time; and
- (b) may, with the approval of the Authority, be changed to a suspension by a securities exchange at any time.

(5) A securities exchange shall, at the written direction of the Authority, halt or suspend the trading of all securities on the market or close the market before the normal close of the trading session.

73. (1) No security shall be suspended or de-listed by a securities exchange without the prior written approval of the Authority. Suspension.

(2) The Authority may, in writing, require a securities exchange to suspend the trading in a listed security where—

- (a) a decision has been made or is imminent that will lead to the placing of the issuer of such securities under statutory management, receivership, liquidation or voluntary winding up;
- (b) there is a significant restructuring involving the listed securities including a restructuring during the process of an acquisition, merger or takeover;
- (c) a recommendation has been made by the directors to the shareholders to have the securities suspended and where the holders of such securities through a special resolution at which a minimum of seventy-five per cent of such security holders are represented without objection to the proposed suspension from at least ten per cent of the holders of securities resolve to have the securities suspended; or
- (d) the issuer is in material default of the issuer's continuing listing obligations.

(3) The suspension of securities shall be for such period as the Authority may approve or direct.

(4) During the period of the suspension, the issuer shall continue to comply with the continuous listing obligations and relevant rules of the securities exchange on which the issuer is listed.

74. (1) The Authority may require a securities exchange to de-list a security where— Delisting.

- (a) the issuer of such securities has been placed under statutory management, receivership or liquidation or voluntary winding up;
- (b) the issuer of such securities has continued to be in material default of continuing listing obligations for at least one year following suspension from trading of its securities;
- (c) as a result of restructuring involving the listed securities, the issuer ceases to exist; or
- (d) a recommendation has been made by the directors to the shareholders to have the securities delisted and where the shareholders of such securities through a special resolution at which a minimum of seventy-five per cent of such security holders are represented without objection to the proposed de listing from at least ten per cent of the holders of securities resolve to have the securities delisted.

(2) Despite the provisions of subregulations 72 and 73, the Authority may require the suspension or delisting of an issuer in any other circumstances, which in the opinion of the Authority, is for the protection of the interests of investors.

(3) Where a security has been suspended or de-listed, the securities exchange shall publish such information on its website and in such other manner as the Authority may direct.

(4) The suspension or de listing of a security shall not —

- (a) absolve an issuer, the issuer's directors or officers from any liability for any default which may have led to such suspension or delisting; or
- (b) terminate any proceedings against such issuer, directors or officers commenced before the suspension or delisting.

75. (1) If the trading of the listed securities of an issuer is suspended under regulation 73, the issuer shall —

Resumption proposals.

- (a) submit to the Authority a resumption proposal with a view to resuming trading in the securities within twelve months after the date of suspension; and
- (b) implement the resumption proposals within three months from the date the Authority indicates that it has no objection to the resumption proposals.

(2) If no resumption proposals have been submitted to the Authority to enable trading to resume within twelve months after the date of suspension, the securities exchange may delist the issuer upon approval by the Authority.

(3) If the resumption proposals have not been implemented within the six months specified in subregulation (1)(b), the securities exchange may de list the issuer upon approval by the Authority.

(4) This regulation shall not apply to suspension arising from regulation 73(2)(b).

76. If an issuer seeks to delist its securities from a securities exchange— Exit offer in de listing.

- (a) the issuer shall make an exit offer to the issuer's minority shareholders and holders of any other classes of listed securities to be de listed to ensure that investors who purchased and held securities on the basis of the listing are not prejudiced by being compelled to hold unlisted securities which shall—
 - (i) be fair and reasonable; and
 - (ii) include a cash alternative as the default alternative; and
- (b) the issuer shall appoint an independent transaction advisor to advise on the exit offer and the advisor shall give an opinion on whether or not the exit offer is fair and reasonable.

77. (1) A securities exchange may place an issuer on the recovery list on the direction or approval of the Authority if the issuer fails to meet any of the continuing listing obligations or for any other reason which, in the opinion of the Authority, is likely to prejudice the interests of the investors or market integrity. Recovery list.

(2) The issuer placed on the recovery list under subregulation (1) shall have the right to be heard by the Authority and securities exchange on which it is listed before being placed on the recovery list.

(3) On the depletion of shareholder funds resulting in a net liability position for the third and subsequent consecutive financial year based on audited full-year consolidated financial statements, an issuer shall be required to announce the fact through its website and in at least one newspaper with national circulation and provide the information prescribed by the Authority.

(4) Subregulation (3) shall not apply to an issuer that has been placed on the recovery list.

(5) If an issuer is placed on the recovery list, it shall —

- (a) immediately announce the fact through its website and in a daily newspaper with nationwide circulation;
- (b) within the prescribed time after being placed on the recovery list, provide a restructuring plan approved by its members to the Authority and the securities exchange on which it is listed;
- (c) implement the restructuring plan within the prescribed time following the submission to the Authority and securities exchange; and
- (d) for the period during which it remains on the recovery list, provide the market, including the Authority and securities exchange on which it is listed, with an update once in every three months on its efforts and progress made in meeting the exit criteria of the recovery list, including its financial situation, future direction, level of compliance with the

continuing obligations or other material development that may have a significant impact on its compliance position:

Provided that if any material development occurs between one update and the next, the issuer shall immediately announce that development in the manner prescribed in paragraph (a).

(6) An issuer on the recovery list may apply to the Authority to be removed from the recovery list if it complies with net assets and solvency requirements or such other requirements as may have been imposed by the Authority.

(7) An issuer that fails to meet the requirements of sub regulation (4) within twenty-four months after the date on which it was placed on the recovery list, the securities exchange may—

- (a) delist the issuer; or
- (b) suspend trading of the listed securities of the issuer with a view to de listing the issuer.

(8) During the period an issuer remains on the recovery list, trading in its securities shall continue, unless a trading halt or a suspension is, or has been, effected.

78. A securities exchange shall prepare and submit to the Authority for approval the rules for the administration of the recovery list maintained by the securities exchange pursuant to this Part including rules on the setting up of a recovery board on which securities of issuers which are on the recovery list may be traded.

Rules for the
administration of
the recovery list.

PART XIII— PUBLIC ANNOUNCEMENTS, CIRCULARS AND ELECTRONIC COMMUNICATIONS

79. Where an issuer proposes to issue a circular to its shareholders or to the public in relation to an issue of securities or a transaction where shareholder approval is required, the issuer shall submit a draft of the circular to the Authority for approval.

Submission of
circulars for
approval.

80. (1) A circular submitted to the Authority for approval shall not be circulated or made available publicly until the Authority advises that it has no objection to the issuance of the circular.

Review of
circulars.

(2) Each public announcement and advertisement to holders of securities or the public shall be factual and shall be submitted to the Authority or the securities exchange, where applicable, for approval before distribution or publication:

Provided that the Authority or the securities exchange, where applicable, may require the inclusion of such additional information which is relevant to the shareholders, investors or public.

(3) The Authority, in lieu of the approval required under subregulations (1) and (2), may issue a circular prescribing the minimum content to be provided by an issuer for purposes of any relevant circular, public announcement or advertisement to be made to the shareholders, investors or public.

(4) An announcement or advertisement made or issued under subregulation (3) shall, on publication, be submitted simultaneously to the Authority.

81. Each circular sent by an issuer to holders of its securities or the public shall—

Content of
circulars.

- (a) contain the information necessary to allow the holders of the securities to make an informed decision or to be properly informed;
- (b) advise holders of securities that if they are in any doubt as to any action they should take, they should consult independent advisers;
- (c) state that the Authority and securities exchange are not responsible for the accuracy of statements or opinions made or reports contained in the circular; and
- (d) comply with specific requirements regarding circulars prescribed in these Regulations.

82. (1) An issuer may send documents, including notices, circulars and annual reports, using electronic communications to a holder of its securities if there is express consent from the holder of the securities or if the Articles of Association or the constitution or issue documents of an issuer permit.

Electronic
communications.

(2) In this regulation, “electronic communications” includes the transmission of any communication through electronic and telecommunications media including websites, email and text messaging.

83. (1) The Authority may permit the issuance by an issuer and the subscription of securities in a public offer through electronic means.

e-IPOs.

(2) A public offer under subregulation (1) may include the issuance of electronic information memorandum and subscription of securities through electronic means whether or not on a first-come first-served basis of subscription and allocation until the available securities are fully subscribed or purchased.

(3) A public offer under this regulation shall comply, with necessary modification, with the provisions relating to public offers set out in these Regulations.

PART XIV—TRANSACTIONS OF LISTED SECURITIES OUTSIDE A SECURITIES EXCHANGE

84. An application to the Authority for approval of a private transaction shall be considered if the transaction is for the—

Nature of
transactions.

- (a) the transfer in the form of a gift;
- (b) a settlement of a will or estate of a deceased person;
- (c) restructuring, merger or acquisition in a scheme which has been approved by the Authority;

- (d) the transfer of an exceptional nature of a listed security that the Authority considers to be proper and acceptable with respect to a strategic investor and serves the investor or public interest; or
- (e) the transfer shall not result in any change in beneficial ownership otherwise than for purposes of paragraphs (c) or (d) or section 31(1A)(ii) of the Act.

85. Where a private transaction has been authorized no brokerage commission shall be payable on the transaction, except a fee prescribed by the Authority:

Brokerage commissions.

Provided that a private transfer under regulation 84 (a) shall be subject to the prevailing prescribed brokerage commission.

86. (1) Where it is intended to effect a private transaction of a listed security under regulation 84 (a), (b) or (c), a central depository agent representing the proposed transferee, shall assess, endorse and submit a written application with the required information and supporting documents to the Central Depository where the securities are held.

Approval of a private transaction.

(2) Where an application is made under regulation 84 (a) or (b), the central depository, shall notify the central depository agent within seven days after receiving the application whether the central depository objects to the private transaction or not, after examining and satisfying itself that the proposed transfer is eligible for consideration as a private transaction in accordance with these Regulations.

(3) The securities exchange or central depository, as the case may be, shall, upon determination of any application made under regulation 84 (a), (b) or (c), approve and simultaneously notify the Authority that the application complies with regulation 84 (a), (b) or (c).

(4) A private transfer application emanating from a change of custodian or fund manager shall be approved by the Central depository, in the case of equities and corporate debt securities and the securities exchange in the case of government debt securities.

(5) The securities exchange and central depository shall jointly submit to the Authority, guidelines for approval in respect of the processing requirements of a private transfer under regulation 84 (a) and (b).

(6) The guidelines stipulated under subregulation (5) shall apply to all stockbrokers.

(7) The Authority may delegate to a securities exchange the approval of private transactions.

87. The approval fee for any transaction of a listed securities outside a securities exchange shall be at the rate prescribed by the Authority.

Approval fees.

88. (1) With respect to an application for approval of a private transaction, falling under regulation 84 (c) or (d) or section 31 (1A) (ii)

Private transactions.

of the Act, the applicant shall submit to the Authority for approval a detailed draft information memorandum or a circular to be published containing information on—

- (a) the name and address of the applicant;
- (b) the date of incorporation;
- (c) the particulars of core activities, directors, management and major shareholders;
- (d) the details of any agreements entered or proposed to be entered into and the cost;
- (e) a statement by the transaction adviser managing the transaction that to the best of its knowledge and belief the application constitutes full and true disclosure of all material facts about the offer and issuer and where appropriate it has satisfied itself that the profit forecasts have been stated by the directors after due and careful inquiry;
- (f) the details of any proposed merger, takeover, acquisitions, share swap, reorganization or restructure scheme and the relevant shareholders or board resolutions;
- (g) a declaration by the directors of the applicant in the following form—

“This application has been approved by the directors of the company all of whom jointly and severally accept responsibility for the accuracy of the information given and confirm that after making all reasonable inquiries and to the best of their knowledge and belief, there are no facts the omission of which would make any statement herein misleading”; and

- (h) any other matters as may be required by the Authority.

(2) The applicant shall make a public announcement of its intention to apply to the Authority for approval of the proposed transfer and reasons therein and a copy of the transfer form for the proposed transaction shall be submitted to the Authority together with the application.

PART XV—CONTINUING OBLIGATIONS

89. (1) Each issuer whose securities have been offered to the public, including special purpose acquisition vehicles, and listed on any market segment shall comply with the continuing obligations specified in the Thirteenth Schedule.

Continuing obligations.

(2) In relation to the continuing obligation to disclose information, an issuer shall make immediate public disclosure of information which might reasonably be expected to have a material effect on market activity and the price of its securities.

(3) Subregulation (2) shall not apply to information which would be a breach of law or contractual obligation not to disclose or meets any of the following conditions—

- (a) information is of confidential nature;
- (b) the information concerns an incomplete proposal or negotiation or matters of supposition or which is insufficiently definite to warrant disclosure;
- (c) information is for internal management purposes; or
- (d) the information is a trade secret:

Provided such information will be made available for review by the Authority to enable it to determine the extent to which it meets the foregoing criteria for exemption.

(4) The information required to be disclosed under these Regulations shall be disclosed within twenty-four hours after the event simultaneously to the Authority, the securities exchange at which the issuer's securities are listed, if applicable, and to the public during non-trading hours of the relevant market segment.

(5) The announcement shall state whether the consent of the Authority or securities exchange or other person is necessary and where necessary, the issuer shall apply for such consent.

(6) An issuer shall publish, by way of a cautionary announcement, information which could lead to material movements in the ruling price of its securities if at any time the necessary degree of confidentiality cannot be maintained, or that confidentiality has or may have been breached.

(7) An issuer who fails to comply with any continuing obligation within the prescribed time shall be liable to pay a default fine at the rate prescribed by the Authority for the continuing time of default, such fine to be imposed notwithstanding that the Authority may have on request, extended time for compliance.

PART XVI—LISTING FEES AND OTHER CHARGES

90. Each issuer shall pay—

Listing fees.

- (a) to the Authority such fees and charges as prescribed in Part A of the Seventeenth Schedule; and
- (b) to the securities exchange such fees and charges as prescribed in Part B of the Seventeenth Schedule.

91. The Authority or securities exchange may waive any fee or charges or part thereof.

Waiver of fees.

PART XVII—REPEAL AND TRANSITIONAL PROVISIONS

92. The Capital Markets (Securities) (Public Offers, Listings and Disclosures) Regulations, 2002 are revoked.

Revocation.

93. Securities listed or approved for listing on the Alternative Investment Market Segment of the Nairobi Securities Exchange at the date these Regulations become effective shall—

Other transitional provisions.

- (a) if the issuers qualify to be listed on the main investment market segment, transition to the main investment market

- segment, or at their discretion to be communicated within ninety days, to small and medium enterprises market segment; or
- (b) if the Issuers do not qualify to be listed on the main investment market segment, transition to the small and medium enterprises market segment.
94. Securities listed or approved for listing on the Fixed Income Securities Market Segment of the securities exchange at the date these Regulations become effective shall—
- (a) if the issue value was more than four hundred million shillings be listed on the Fixed Income Securities Market Segment; or
- (b) if the issue value was for less than four hundred million shillings be listed on the Small and Medium Enterprise Fixed Income Securities Market Segment.
95. Any application for approvals for offers, listing or any corporate action which has been commenced but for which no approval has been obtained before the effective dates shall be assessed under the Capital Markets (Securities) (Public Offers, Listings and Disclosures) Regulations, 2002.
96. A securities exchange shall amend its listing, trading or any rules in place governing trading of securities in its exchange to align with these Regulations and submit them for approval by the Authority not later than ninety days from the effective date of these Regulations.
97. Every issuer of securities shall comply with the requirement to appoint or designate a compliance officer within one year of the effective date of these Regulations.

Fixed income
securities
transition.

Savings
provisions.

Alignment of
other rules.

Compliance with
requirements on
compliance
officer.

FIRST SCHEDULE

*[r. 11(a), (b)]*ELIGIBILITY REQUIREMENTS FOR PUBLIC OFFERING AND LISTING OF
EQUITIES IN THE MAIN INVESTMENT MARKET SEGMENT AND THE SME
MARKET SEGMENT

	PART A	PART B
<i>Requirement</i>	<i>Criteria for the Main Investment Market Segment</i>	<i>Criteria for the SME Market Segment</i>
Incorporation/ Registration status	The issuer to be listed shall be a body corporate duly incorporated or registered under the Laws of Kenya.	The issuer to be listed shall be a body corporate duly incorporated or registered under the Laws of Kenya.
	The issuer must have been in business operations for at least five (5) years.	The issuer must have been in business operations for at least two (2) years.
Minimum Size (Share capital and shareholding)	The issuer shall have a minimum issued and fully paid-up ordinary share capital of fifty million shillings.	The issuer shall have a minimum issued and fully paid-up ordinary share capital of ten million shillings.
	The Issuer must have a minimum of 250 shareholders	The Issuer must have a minimum of 7 shareholders.
Total Assets	The total assets immediately before the public offering or listing of shares should not be less than one billion shillings (unless exempted by the Authority).	The total assets immediately before the public offering or listing of shares should not be less than one hundred million shillings (unless exempted by the Authority).
Free transferability of securities	Securities to be listed shall be fully paid up, freely transferable and not subject to any restrictions on marketability or any preemptive rights.	Securities to be listed shall be fully paid up, freely transferable and not subject to any restrictions on marketability or any preemptive rights.
Availability and reliability of financial records	The issuer shall have audited financial statements complying with International Financial Reporting Standards (IFRS) for the last three accounting periods including the accounting period ending on a date not more than four months prior to the proposed date of the commencement of the offer or listing for issuers whose securities are not listed at the	The issuer shall have audited financial statements complying with International Financial Reporting Standards (IFRS) for the last one accounting period including the accounting period ending on a date not more than four months prior to listing for issuers whose securities are not listed at the securities exchange, and six months for issuers whose securities are listed at

	securities exchange, and six months for issuers whose securities are listed at the securities exchange.	the securities exchange.
	The issuer shall provide a limited review of the interim financial statements where the recent accounting period ends on a date that is more than four months (or six months in the case of an entity whose securities are listed on a securities exchange) from the proposed date of the commencement of the offer.	The issuer shall provide a limited review of the interim financial statements where the recent accounting period ends on a date that is more than four months (or six months in the case of an entity whose securities are listed on a securities exchange) from the proposed date of the commencement of the offer.
	The Issuer must be a going concern with the external auditor confirming the appropriateness of the use by the issuer's directors of the going concern basis of accounting as well as a confirmation that no material uncertainties exist.	The Issuer must be a going concern with the external auditor confirming the appropriateness of the use by the issuer's directors of the going concern basis of accounting as well as a confirmation that no material uncertainties exist.
Competence and suitability of Directors and management	As at the date of the application no current director of the issuer shall have:	As at the date of the application, no current director of the issuer shall have:
	(i) Any petition under bankruptcy or insolvency laws in any jurisdiction pending against him (for individuals); or any winding-up petition pending against it (for corporate bodies); or	(i) Any petition under bankruptcy or insolvency laws in any jurisdiction pending against him (for individuals), or any winding-up petition pending against it (for corporate bodies)
	(ii) been convicted for any crime in Kenya within the previous two years; or	(ii) have been convicted for any crime in Kenya within the previous two years
	(iii) been the subject of any ruling of a court of competent jurisdiction or any government body in any jurisdiction or a professional body to which he may belong to,	(iv) been the subject of any ruling of a court of competent jurisdiction or any government body in any jurisdiction or any professional body to which he may belong, that disables him

	that disables him from acting as a director or employee or a professional in the relevant field or engaging in business practice or activity in that jurisdiction.	from acting as a director or employee or a professional in the relevant field or engaging in business practice or activity in that jurisdiction.
	The issuer must have suitable senior Management with relevant and sufficient experience, none of whom shall have been convicted of serious offence in any jurisdiction that may be considered inappropriate for the management of a listed company.	The issuer must have suitable senior Management with relevant and sufficient experience, none of whom shall have been convicted of serious offence in any jurisdiction that may be considered inappropriate for the management of a listed company.
	The issuer shall have a board comprising of a majority of non-executive directors and at least one third of the total number being independent directors.	The issuer shall have a mix of executive directors, non-executive directors and independent directors.
Dividend policy	The issuer must have a dividend policy.	The issuer must have a dividend policy.
Track record, profitability, and future prospects	The issuer should have good growth potential and a revenue earning record with at least one of the last five years of business operations reflecting a profit.	The issuer should have a credible and auditable business plan with verifiable growth potential and at least a major asset or a contracted business opportunity consistent with its line of business.
	For purposes of listing by introduction by issuers listed on a foreign securities exchange, the issuer must have been listed for a minimum of two years.	For purposes of listing by introduction by issuers listed on a foreign securities exchange, the issuer must have been listed for a minimum of two years.
Solvency and adequacy of working capital	The issuer should be solvent and have sufficient working capital	The issuer should be solvent and have sufficient working capital.
	At the date of the application, the issuer must not be in breach of any of its loan covenants.	At the date of the application, the issuer must not be in breach of any of its loan covenants.
Share ownership structure	Following the public share offering or immediately prior to listing in the case of an introduction, at least fifteen (15) per cent of the securities	Following the public share offering or in the case of a listing by introduction, at least ten (10) per cent of the issued shares (excluding those held by a controlling shareholder or

	(excluding those held by a controlling shareholder or people associated or acting in concert with him; or the Company's Senior Managers) must be available for trade by the public at the date of commencement of trading on the securities exchange.	people associated or acting in concert with him; or the Company's Senior Managers) must be available for trade by the public at the date of commencement of trading on the securities exchange.
	The issuer shall ensure that the existing shareholders, associated persons or such other group of controlling shareholders who have influence over management shall give an undertaking in terms agreeable to the Authority and the Securities Exchange restricting the sale of part or the whole of their shareholding before the expiry of a period of twenty-four months following listing and such undertaking shall be disclosed in the Information Memorandum.	The issuer must ensure that the existing shareholders, associated persons or such other group of controlling shareholders who have influence over management shall give an undertaking in terms agreeable to the Authority and the Securities Exchange restricting the sale of part or the whole of their shareholding before the expiry of a period of twenty-four months following listing and such undertaking shall be disclosed in the Information Memorandum.
Certificate of comfort	If the issuer is listed in a securities exchange outside Kenya or is licensed or regulated by any regulator, a certificate of no objection from that foreign securities exchange and from the relevant regulators will be required.	If the issuer is listed in a securities exchange outside Kenya or is licensed or regulated by any regulator, a certificate of no objection from that foreign securities exchange and the relevant regulators will be required.

SECOND SCHEDULE

[r. 11(c)]

ELIGIBILITY REQUIREMENTS FOR PUBLIC OFFERING OF FIXED INCOME
SECURITIES AND LISTING ON THE MAIN FIXED INCOME SECURITIES
MARKET SEGMENT

REQUIREMENT	CRITERIA
Legal Status	<p>The Issuer shall be a body corporate incorporated or registered under any written law in Kenya.</p> <p>The body corporate must have been in business operations for a period of at least 5 years.</p>
Size: Share Capital and Net Assets of Issuer	<p>The issuer shall have minimum issued and fully paid-up share capital of fifty million shillings if a company.</p> <p>The Issuer shall have net assets of one hundred million shillings before the public offering or listing of the securities.</p>
Availability and reliability of financial records	<p>The issuer must have audited financial statements complying with International Financial Reporting Standards (IFRS) for an accounting period ending on a date not more than four months prior to the proposed date of the offer.</p> <p>The issuer shall provide a limited review of the interim financial statements where the recent accounting period ends on a date that is more than four months from the proposed date of the commencement of the offer.</p> <p>The Issuer must be a going concern with the external auditor confirming the appropriateness of the use by the issuer's directors of the going concern basis of accounting as well as a confirmation that no material uncertainties exist.</p> <p>At the date of the application, the issuer must not be in breach of any of its loan covenants.</p> <p>In the case of issuers whose securities are listed at a securities exchange in Kenya but where not more than six months have elapsed since the end of the financial year, un-audited financial statements covering the period preceding the six months must be included in or appended to the Information Memorandum</p>
Listing and transferability of securities	All fixed income securities shall be freely transferable and not subject to any restrictions on marketability or pre-emptive rights.
Directors and senior management	<p>As at the date of the application, no director of the issuer shall have –</p> <p>(a) any petition under bankruptcy or insolvency laws in any jurisdiction pending against him (for individuals), or any winding-up petition pending against it (for corporate bodies)</p> <p>(b) been convicted for any crime in Kenya within the previous two years;</p>

	<p>(c) been the subject of any ruling of a court of competent jurisdiction or any government body in any jurisdiction or any professional body to which he may belong, that disables him from acting as a director or employee or a professional in the relevant field or engaging in business practice or activity in that jurisdiction.</p> <p>The issuer must have suitable senior management with relevant and sufficient experience, none of whom shall have been convicted of any serious offence that may be considered inappropriate for the management of a listed company.</p> <p>The Board shall comprise a balance of executive and non-executive directors, with a majority of non-executive directors. Independent non-executive directors shall be at least one third of the total number of Board members.</p> <p>The Chief Executive Officer or their equivalent, shall be executive directors of the issuer.</p>
Certificate of comfort	<p>If the issuer is licensed to operate or regulated by any regulator in any country, a certificate of no objection from the relevant regulators will be required.</p> <p>Where there is a guarantor, the guarantor shall provide the Authority with a financial capability statement duly certified by its auditors.</p>
Profitable historic track record	The issuer must have declared profits before tax attributable to shareholders or owners in at least two of the last three financial periods preceding the application for the issue.
Debt ratios	Total liabilities, including the new issue of fixed income securities, shall not exceed four (4) times the level of shareholder funds.
Guarantee requirements	<p>Where the issuer does not satisfy any or more of the requirements under this Schedule, it may seek a credit enhancement to have the securities it seeks to issue guaranteed.</p> <p>The guarantor may only be a bank or an insurance company or any other institution with necessary financial capacity acceptable to the Authority and a copy and terms of the guarantee document shall be subject to the approval of the Authority.</p> <p>Where the guarantor is a foreign bank, the guarantor shall provide to the Authority a letter of no objection from the guarantor's primary regulator.</p>
Size of the issue and listing	<p>The minimum size of the issue shall be four hundred million shillings.</p> <p>The minimum subscription shall be ten thousand shillings or such higher amount as the Authority may prescribe from time to time.</p>
Rating of debt issue	The issuer of debt securities may be rated by a credit rating agency licensed or recognized by the Authority.

	All Information Memoranda for offers of rated fixed income securities shall include a cautionary statement with words to the effect that:
	<i>"A credit rating is not a recommendation to apply for the securities on offer or an assurance of performance of the offer or the issue and investors should exercise due diligence and use the rating only as one of the considerations in making their investment decision."</i>
Trust and Trust Deed	<p>An issuer shall, where there is any security or enhancement for the fixed income security, and may in any other case, appoint a trustee to represent the holders of its debt securities listed on the Exchange.</p> <p>The trustee shall be:</p> <p>(a) a body corporate; and</p> <p>(b) comprised of professionals with relevant and sufficient understanding of the capital markets.</p> <p>The issuer shall ensure that it has no interest in or relation to the trustee which may conflict with the trustee's role as trustee and the trustee shall issue a statutory declaration to the effect that it is independent of the issuer. In evaluating if it has such an interest or relation, the issuer shall take into account whether it controls the trustee.</p> <p>The issuer shall submit to the Authority the trust deed between it and the trustee which shall contain, at the minimum, provisions to the following effect:</p> <p>(a) the trustee or the security trustee appointed shall ensure that it has the ability and powers to perform all of its duties as set out in the trust deed; and</p> <p>(b) the issuer shall promptly notify the trustee when the issuer is aware that:</p> <p>(i) any event of default, enforcement event or other event that would cause acceleration of the repayment of the principal amount of the debt securities has occurred; or</p> <p>(ii) any condition of the trust deed cannot be fulfilled.</p>
Independent Receiving Bank	<p>The receiving bank for proceeds of the issue shall be independent of the issuer.</p> <p>All proceeds of the issue shall be held in the receiving bank in a trust account until the securities are credited to security buyers' CDS accounts.</p>
Transaction Agreements	The issuer shall submit to the Authority signed copies of all agreements between itself and transaction team before the offer opening date.

THIRD SCHEDULE

[r. 11(d)]

**ELIGIBILITY REQUIREMENTS FOR PUBLIC OFFERING OF FIXED INCOME
SECURITIES AND LISTING ON THE SME FIXED INCOME SECURITIES
MARKET SEGMENT (SME FISMS)**

REQUIREMENT	CRITERIA
Legal Status	<p>The Issuer shall be a body corporate incorporated or registered under any written law in Kenya.</p> <p>The body corporate must have been in business operation for a period of at least 2 years.</p>
Size: Share Capital and Net Assets of Issuer	<p>The issuer shall have minimum issued and fully paid-up share capital of ten million shillings, if a company.</p> <p>The Issuer shall have net assets of twenty million shillings before the public offering or listing of the securities. The Authority shall have the power to increase, lower or exempt an issuer from this requirement.</p>
Availability and reliability of financial records	<p>The issuer must have audited financial statements complying with International Financial Reporting Standards (IFRS) for an accounting period ending on a date not more than four months prior to the proposed date of the offer.</p> <p>The issuer shall provide a limited review of the interim financial statements where the recent accounting period ends on a date that is more than four months from the proposed date of the commencement of the offer.</p> <p>The issuer must be a going concern with the external auditor confirming the appropriateness of the use by the issuer's directors of the going concern basis of accounting as well as a confirmation that no material uncertainties exist.</p> <p>At the date of the application, the issuer must not be in breach of any of its loan covenants.</p> <p>In the case of issuers whose securities are listed at a securities exchange in Kenya but where not more than six months have elapsed since the end of the financial year, un-audited financial statements covering the period preceding the six months must be included in or appended to the Information Memorandum.</p>
Listing and transferability of securities	<p>All fixed income securities shall be freely transferable and not subject to any restrictions on marketability or pre-emptive rights.</p>
Directors and senior management	<p>As at the date of the application, no director of the issuer shall have:</p> <p>(a) any petition under bankruptcy or insolvency laws in any jurisdiction pending against him (for individuals), or any</p>

	<p>winding-up petition pending against it (for corporate bodies);</p> <p>(b) been convicted for any crime in Kenya within the previous two years; or</p> <p>(c) been the subject of any ruling of a court of competent jurisdiction or any government body in any jurisdiction or any professional body to which he may belong, that disables him from acting as a director or employee or a professional in the relevant field or engaging in business practice or activity in that jurisdiction.</p> <p>The issuer must have suitable senior management with relevant and sufficient experience, none of whom shall have been convicted of any serious offence that may be considered inappropriate for the management of a listed company.</p> <p>The issuer shall have a mix of both executive directors, non-executive and independent directors.</p>
Certificate of Comfort	<p>If the issuer is licensed to operate by any regulator in any country, a certificate of no objection from the relevant regulators will be required.</p> <p>Where there is a guarantor, the guarantor shall provide the Authority with a financial capability statement duly certified by its auditors.</p> <p>Where the guarantor is a foreign bank, the guarantor shall provide to the Authority a letter of no objection from the guarantor's primary regulator.</p>
Debt ratios	<p>Total liabilities, including the new issue of fixed income securities shall not exceed four (4) times the level of shareholder's funds</p>
Guarantee requirements	<p>Where the issuer does not satisfy any of the requirements under this Schedule, it may obtain a credit enhancement to have the securities it seeks to issue guaranteed.</p> <p>The guarantor may only be a bank or an insurance company or any other institution with necessary financial capacity acceptable to the Authority and a copy of the guarantee document shall be subject to the approval of the Authority.</p>
Size of the issue and listing	<p>The minimum size of the issue shall be twenty million shillings and a maximum of four hundred million shillings.</p> <p>The minimum subscription shall be ten thousand shillings or such higher amount as the Authority may prescribe from time to time.</p>
Trust and Trust Deed	<p>An issuer shall, where there is any security or enhancement for the fixed income security, and may in any other case, appoint a trustee to represent the holders of its debt securities listed on the Exchange.</p> <p>The trustee shall be:</p>

	<p>(a) a body corporate; and</p> <p>(b) comprised of professionals with relevant and sufficient understanding of the capital markets.</p> <p>The issuer shall ensure that it has no interest in or relation to the trustee which may conflict with the trustee's role as trustee and the trustee shall issue a statutory declaration to the effect that it is independent of the issuer. In evaluating if it has such an interest or relation, the issuer shall take into account whether it controls the trustee.</p> <p>The issuer shall submit the trust deed between it and the trustee to the Authority which shall contain, at the minimum, provisions to the following effect:</p> <p>(a) the trustee or the security trustee appointed shall ensure that it has the ability and powers to perform all of its duties as set out in the trust deed;</p> <p>(b) the issuer shall promptly notify the trustee when the issuer is aware that:</p> <p>(i) any event of default, enforcement event or other event that would cause acceleration of the repayment of the principal amount of the debt securities has occurred; or</p> <p>(ii) any condition of the trust deed cannot be fulfilled.</p>
Independent Receiving Bank	<p>The receiving bank shall be independent of the issuer where the issuer is a licensed bank.</p> <p>Any proceeds of the issue shall be held in the receiving bank in a trust account until after the securities are credited to buyers' CDS accounts.</p>
Transaction Agreements	<p>The issuer shall submit to the Authority signed copies of all agreements between itself and transaction team before the offer opening date.</p>

FOURTH SCHEDULE

[r. 11(e)]

REQUIREMENTS FOR ISSUANCE OF REGIONAL FIXED INCOME

REQUIREMENT	ELIGIBILITY TO ISSUE
Eligibility to issue	An offer of fixed income securities approved for issue in more than one jurisdiction in East African Community shall be considered as a regional offer of fixed income securities and shall comply with the relevant regulations, rules or guidelines attaching to issuers of securities to the public in any jurisdiction in which the issue has been made.
Approval entity	The issuer shall elect a primary jurisdiction in which the issuer shall lodge the prospectus. The issuer shall simultaneously submit the prospectus to the regulators of other jurisdictions which the issuer proposes to raise capital for approval. The procedure for approval is as set out in item II of this Part.
	ISSUER
Issuer	The issuer shall be an entity incorporated or registered as a foreign entity in all jurisdictions where the offer is to be made.
Incorporation Status	Where the issuer is not a company, then the issuer shall be duly established under a written law or recognized under an international treaty.
Share Capital	The minimum paid-up share capital shall be the local currency equivalent of United States of America dollars 850,000.
Net Assets	The net assets shall be the local currency equivalent of United States of America dollars 1,700,000. All sovereign borrowers, quasi-sovereign borrowers and treaty organizations are exempted from the share capital and net assets requirements.
Profitability	An issuer, other than a special purpose vehicle, shall be required to have reported profits in at least two of the previous three years preceding the offer. Provided that the regulatory authorities shall retain the discretion to grant a waiver in circumstances where decline in profitability is not considered to be a consequence of the fundamentals of the company.
Exemption of SPVs	A special purpose vehicle (other than a Special Purpose Acquisition Company) without a track record may raise capital and such special purpose vehicle shall be subjected to disclosure requirements on performance projections, risk factors and mitigations and on the availability of financial information to assess any projections made. An issuer that is an SPV shall be eligible for approval to make offers to institutional or sophisticated investors but not unrestricted offers to the public.

	ISSUE
Issue size	The minimum size of a regional fixed income security issue shall be the local currency equivalent of USD 850,000.
Denomination of offer and application of funds outside the jurisdiction where funds are raised	<p>An issuer may raise funds in any jurisdiction in the region without restriction on the jurisdiction where proceeds are to be used subject to disclosure of that fact in the information memorandum and subject to obtaining the necessary exemptions on exchange controls, if required.</p> <p>An issuer shall determine the currency or currencies for the issue subject to the prevailing policy.</p>
Credit enhancement	<p>An issuer may secure credit enhancement.</p> <p>Provided that where credit enhancement is to be provided, the following requirements shall apply-</p> <p>(a) In the case of a guarantee, the guarantor shall be a bank, duly licensed non-bank financial institution, or recognized international financial institution;</p> <p>(b) a letter of no objection shall be provided by the credit enhancer's primary regulator (other than in the case of an international financial institution); and</p> <p>(c) the guarantor shall be required to have a valid credit rating.</p> <p>The Authority may prescribe any conditions or information requirements applicable to any other form of credit enhancement.</p> <p>Notwithstanding that an issuer has made a regional fixed income security offer, the issuer, may, at any time, raise an additional amount in any one or more jurisdictions in accordance with a further pricing supplement updating the disclosures in the regional information memorandum. In all events, where a green shoe option is available, it shall be made to all countries where the offer has been made available.</p>
Cashflow projections	An issuer shall provide <i>proforma</i> financial statements which cover a period of not less than three years from the date of issue or where the fixed income security has a shorter maturity period, the life of that fixed income security.
Disclaimer statement	<p>All prospectuses for regional offers of fixed income securities shall contain the following statement on the front page-</p> <p><i>"As a matter of policy, the approving regulators assume no responsibility for the correctness of any statements or opinions made or reports contained in this prospectus. Approval of the issue or listing is not an indication of the merits of the issuer or of the securities"</i></p>
Listing	Listing shall be mandatory for all regional offers of securities which are to be offered to the public or a section of the public:

	<p>Provided that this requirement shall not apply to offers targeted at institutional, sophisticated or professional investors.</p> <p>An issuer who is not eligible for listing may be approved to issue its securities to sophisticated, institutional or professional investors and the securities may be approved for trade on regulated Over the Counter (OTC) markets.</p>
	FINANCIAL DISCLOSURE REQUIREMENTS
Financial statement disclosure	<p>Where an issuer has a track record, the following financial statements complying with International Financial Reporting Standards (IFRS) for the three years preceding the offer shall be required-</p> <ul style="list-style-type: none"> (a) audited accounts not more than six months old at the time of the offer; (b) where the audited accounts are more than six months old they shall be supported by management accounts; and (c) management accounts shall be prepared to a date within one month of the date of the offer.
Trading clearing and settlement	<p>An issuer of regional fixed income securities shall comply with the requirements relating to trading, clearing and settlement on any exchange on which its securities are traded or in line with the rules for the relevant OTC market as well as those of any central depository through which its securities are cleared and settled.</p>
Credit Ratings	<p>An issuer of regional fixed income securities shall maintain a valid credit rating for so long as the issue remains outstanding:</p> <p>Provided that where an issuer has no track record or where the debt is to be funded from revenue from a specific project or designated cash flows, then the credit rating shall be in respect of the project or performance projections.</p> <p>All Information Memoranda for regional offers of fixed income securities shall include a cautionary statement with words to the effect that-</p> <p><i>"A credit rating is not a recommendation to apply for the securities on offer or an assurance of performance of the offer or the issue and investors should exercise due diligence and use the rating only as one of the considerations in making their investment decision."</i></p>
Parties	<p>An issuer of regional fixed income securities shall in respect of any issue of securities comply with the following requirements relating to professional parties.</p> <p><i>Transaction Adviser, Sponsoring Stockbroker or Placing Agent:</i></p> <p>Appoint a transaction arranger, placing agent or a sponsoring stockbroker who shall be a corporate body licensed to carry out such function by at least one East African Community Partner State regulator and has affiliates in all regional jurisdictions where the security will be issued.</p>

	<p><i>Accountant's report</i></p> <p>Appoint a reporting accountant for the issue who shall be in compliance with all the requirements of their professional bodies. The reporting accountant shall be a firm registered in any East African Community country with affiliates in all East African Community countries.</p> <p><i>Legal Opinion</i></p> <p>Appoint a legal adviser who shall be in compliance with all the requirements of their professional bodies. The legal advisers shall be a firm registered in any East African Community country with affiliates in all East African Community countries.</p> <p><i>Paying and Receiving Bank</i></p> <p>Appoint paying and receiving banks which shall be banks licensed in the East African Community countries where funds are being raised. The issuer shall determine the number of receiving banks.</p>
Continuous disclosure obligations	<p>An issuer of a regional fixed income security shall be required to comply with the continuous disclosure obligations applicable to offers of fixed income securities in all jurisdictions in which it has raised capital from the public.</p> <p>Where the regional fixed income security is listed on one or more securities exchanges or is traded on any regulated market within the East African Community region, it shall comply with the continuous obligations imposed by that securities exchange or market.</p> <p>The issuer is obliged to avail to investors in all jurisdictions in which the issuer has raised capital, all relevant information for proper appraisal of the financial position of the issuer in an effective and timely manner.</p> <p>The matters subject to continuous reporting includes-</p> <ul style="list-style-type: none"> (a) updates on rating reports; (b) interim financial reporting; (c) audited financial reports.
Penalties	<p>An issuer who fails to comply with the continuous disclosure obligations including failure to provide any required information to all investors simultaneously, is liable for breach of the continuous reporting obligations in any jurisdiction in which such omission occurs and the applicable sanctions shall apply.</p> <p>The law in force in the jurisdiction where a cause of action arises shall apply in case of a dispute between an investor and an intermediary or between an issuer and an intermediary. The information memorandum shall specify the applicable law and mode of dispute resolution where a dispute involves the issuer and an investor.</p> <p>Evaluation fees shall be paid at the time of application to the primary regulator. It shall be the duty of the primary regulator to</p>

	transfer to the other regulators their share of the evaluation fees paid. In the event of a rejection, the issuer shall forfeit twenty-five per cent of the evaluation fee paid.
	INFORMATION MEMORANDUM APPROVAL PROCEDURE FOR ISSUANCE OF REGIONAL FIXED INCOME SECURITIES
	<p>1. The issuer shall submit, for approval, a draft information memorandum accompanied by an evaluation fee to all East African Partner State regulators in which it intends to raise capital indicating the jurisdiction that the issuer desires to be the primary approving jurisdiction or primary regulator.</p> <p>2. Where an application has been lodged that is incomplete or unmeritorious <i>ab initio</i> as a regional fixed income security, the primary regulator shall have the discretion to reject the application in whole and inform the other regulators of such rejection and the reasons thereof. In the event of a rejection and the issuer wishes to proceed with the issuance, the issuer shall be required to lodge the application afresh in all jurisdictions and be liable to pay any application costs attaching thereto.</p> <p>3. Each regulator shall apply the eligibility and disclosure requirements for issuance of regional fixed income securities for purposes of assessing the application.</p> <p>4. In the event that any regulator seeks to interpret the applicability of any provision of the eligibility and disclosure requirements, that regulator shall officially communicate with all other regulators to determine the manner in which that matter will be addressed, and the majority opinion shall prevail.</p> <p>5. Where a regulator has communicated with the other regulators in accordance with paragraph 4, the regulators consulted shall revert within five working days of the receipt of communication and the final position shall be communicated to the issuer within ten working days and copied to all regulators.</p> <p>6. The other regulators shall submit any comments on the information memorandum to the primary regulator for consolidation for communication to the issuer. Where the primary regulator proposes to exclude certain matters from communication to the issuer, it shall communicate its intention to the other regulators, which action shall be subject to the timelines for communication under paragraph 5.</p> <p>7. The primary regulator shall, upon completion of its review, submit the same for consideration and approval by its relevant authority in accordance with its applicable procedures for approval of offers to the public:</p> <p>Provided that the submission shall not be made later than five working days following the receipt of the complying document from the issuer.</p> <p>8. In the event of an approval, the primary regulator shall issue</p>

	<p>a letter to all other regulators communicating its approval and confirming that the issue complies with the regional criteria.</p> <p>9. In the event of the grant of an approval of the issue, the primary regulator shall provide a copy of the letter of approval and details of any conditions imposed on that approval to all the other regulators. This approval will not be communicated to the issuer pending circulation and determination by the other regulators.</p> <p>10. Upon receipt of a copy of the approval letter from the primary regulator, every regulator which is in receipt of the information memorandum shall submit the final Information Memorandum together with the primary regulator's approval letter to their respective authorities for consideration and determination where applicable:</p> <p>Provided that such submission shall not be made later than seven working days following the receipt of the primary regulator's decision as per the approval timetable set out in item III of this Part.</p> <p>11. In the event that approval is declined, the primary regulator shall provide a copy of the reasons for such decision to all other regulators for their consideration. The primary regulator shall specify where the approval has been withheld for reasons other than those in the criteria set down for regional issues. Where a rejection occurs for reasons other than failure to comply with the regional guidelines, the other regulators shall retain full statutory discretion to approve or reject the application placed before it notwithstanding any approval or rejection by the primary regulator.</p> <p>12. For the purposes of coordination, the approving regulators shall engage with any listing exchange in their jurisdiction to ensure compliance by the issuer with any reporting and disclosure obligations issued by the regulator and the securities exchange.</p> <p>13. In so far the issuer has raised capital in a particular jurisdiction; the relevant regulator shall be responsible for the supervision of that issuer in respect of that issue.</p> <p>14. Where an imbalance in information disclosure occurs, the regulators shall coordinate any action with any relevant securities exchanges or trading platforms on which the securities in question are traded to mitigate the negative impacts of such information asymmetry on investors.</p>
	APPROVAL TIMETABLE
	<p>T: Complying application lodged with all the regulators.</p> <p>T+ 10: All comments from regulators lodged with the primary regulator.</p> <p>T + 15: All areas for consultation for interpretation resolved.</p> <p>T+ 20: All issues communicated to the issuer.</p>

	<p>Y (date issuer reverts with complying documents) + 10: Primary regulator board determination (primary board may approve with conditions) and issues letter of comfort.</p> <p>Y+ 15: All other regulator's board determination (decisions may be conditional indicating matters to be addressed).</p> <p>Y+ 17: Communication of regulator's decision to issuer.</p> <p>"day" means a business day</p>
REQUIREMENTS FOR ISSUANCE OF REGIONAL EQUITY SECURITIES	
Issuer	<p>1. (1) The issuer shall be a company incorporated or registered under the Companies Act or other equivalent law in any one of the jurisdictions where the offer is to be made.</p> <p>(2) Where the issuer is not a company, then the issuer shall be duly established under a written law or be recognized under an international treaty.</p>
Share Capital	2. The issuer shall have a minimum authorized issued and fully paid-up share capital of local currency equivalent of one million United States of America Dollars.
Net Assets	3. Net assets immediately before the public offering shall not be less than the local currency equivalent of one million, seven hundred thousand United States of America Dollars.
Free transferability of shares	4. The shares offered shall be freely transferrable and not subject to any restrictions on marketability or any pre-emptive rights.
Availability and reliability of financial records	<p>5. (1) An issuer shall provide audited financial statements complying with IFRS for the three years preceding the offer for an accounting period ending on a date not more than four months prior to the proposed date of the offer or listing for issuers whose securities are not listed at the Exchange, and six (6) months for issuers whose securities are listed at the Exchange.</p> <p>(2) Where the audited financial statements are in respect with a period of not more than six (6) months before the date of the offer documents, unaudited financial statements relating to a period not longer than ninety (90) days from the date of the offer documents shall be submitted.</p> <p>(3) The Issuer must have prepared financial statements for the latest accounting period on a going concern basis and the audit report must not contain any emphasis of matter or qualification in this regard.</p>
Competence and suitability of directors and management	<p>6. (1) At the date of the application, the issuer must not be in breach of any of its loan covenants particularly in regard to the maximum debt capacity.</p> <p>(2) As at the date of the application, no director or senior manager of the issuer may have done any of the following:</p> <p>(a) contravened the provision of any law, in any of the Partner States or elsewhere, designed for the protection of members of</p>

	<p>the public against financial loss due to dishonesty, incompetence, or malpractice by persons engaged in transacting with marketable securities;</p> <p>(b) been a director of a licensed or approved person who has been liquidated or is under liquidation or statutory management;</p> <p>(c) taken part in any business practice which, in the opinion of a East African Partner State regulator or an Exchange was fraudulent, prejudicial to the market or public interest, or was otherwise improper, which would otherwise discredit the person's methods of conducting business;</p> <p>(d) taken part or has been associated with any business practice which casts doubt on the competence or soundness of judgment of that person; and</p> <p>(e) acted in such a manner as to cast doubt on the person's competence and soundness of judgment.</p>
Dividend policy	7. The issuer must have a clearly defined future dividend policy.
Solvency and adequacy of working capital	<p>8. The issuer should not be insolvent</p> <p>9. The issuer should have adequate working capital.</p>
Share ownership structure	10. The issuer must ensure that the existing shareholders, associated persons or such other group of controlling shareholders who have influence over management shall give an undertaking to the Authority not to sell their shareholding before the expiry of a period of twenty-four months following listing and such undertaking shall be disclosed in the Information Memorandum.
Certificate of comfort	11. If the issuer is listed in another securities exchange within the Partner State or is licensed by any other regulator other than a regulator within the Community, it shall obtain a certificate of no objection from that regulator.
Track record	12. Issuers shall comply with track record requirements in the Listing requirements.
Issued shares to be dematerialized	<p>13. (1) All regional equity securities shall be in dematerialized form.</p> <p>(2) All regional equity securities must be deposited at a central depository established under a written law in any of the Partner States.</p>
Issue size	14. The size of an issue shall be as determined by the issuer
Denomination of offer	15. The currency and denomination of the issue shall be as determined by the issuer.
Procedure for issuance and applicable approval fee for regional equity securities	<p>16. (1) The approval procedure for issuance of regional fixed income securities as specified in Part B of the Second Schedule shall apply to issuance of regional equity securities.</p> <p>(2) The approval fee applicable to regional fixed income securities as specified in the Seventeenth Schedule shall apply to regional equity securities.</p>

FIFTH SCHEDULE

(r. 11)

ELIGIBILITY AND OTHER REQUIREMENTS FOR ISSUANCE OF GREEN BONDS

REQUIREMENT	CRITERIA
Procedure for Issuance of a Green Bond	<p>1. An issuer of a Green Bond shall comply with the requirements in this schedule in addition to the relevant provisions of these Regulations as amended from time to time.</p> <p>2. An issuer shall appoint an Independent Verifier to carry out a pre-issuance review and confirm to investors and the Authority, and a Securities Exchange where the issuance is intended to be listed, that the issuance is eligible to be classified as green pursuant to green guidelines and applicable standards.</p> <p>3. An issuer shall prepare an Information Memorandum which shall comply with the provisions of Regulation 7 (1) (c) as read together with the Second Schedule of these Regulations.</p> <p>4. The Information Memorandum described under paragraph 3 shall contain a statement from the Independent Verifier, in the form of a report, confirming whether the proposed issuance can be classified as green pursuant to Green Bond guidelines and standards.</p> <p>5. The report in paragraph 4 shall contain the following particulars –</p> <ul style="list-style-type: none"> (a) a statement on the environmental or other green objectives of the proposed Green Bond and the process to determine project eligibility and related eligibility criteria; (b) a statement of the systems, policies and processes to be used for the management, allocation and reporting of the Green Bond funds and investments; and (c) a statement to confirm that the proposed Green Bond issuance can be classified as green.
Procedure for Listing a Green Bond	The procedure for listing of Green Bonds shall be in accordance with the provisions of the Securities Exchange Listing Rules to which the bond is proposed to be listed.

<p><i>Eligibility as an Independent Verifier</i></p>	<p>1. An Independent Verifier appointed under these regulations shall be an entity –</p> <ul style="list-style-type: none"> (a) specializing in assessing the framework of the Green Bond's environmental objectives, with sufficient environmental, financial and market-specific expertise to perform a comprehensive assessment of the use of proceeds; (b) independent of the issuer, its directors, senior management and advisors; (c) compliant with the International Capital Markets Association's Guidelines for External Reviewers, or accredited under the Climate Standards and Certification Scheme, or any industry body acceptable to the Authority, and to a Securities Exchange, in the case of a listed Green Bond; and (d) with significant and appropriate expertise needed for providing independent reviews on green bonds.
<p><i>Submission of the Information Memorandum</i></p>	<p>1. (1) A proposed issuer shall submit the Information Memorandum and all supporting documents to the Authority through its Transaction Advisor.</p> <p>(2) The Authority, after receipt of full and final documents from the proposed issuer, shall undertake a review of the Information Memorandum and supporting documents with a view of satisfying itself that the proposed issuer has complied with all laws and requirements relating to the issuance of a Green Bond.</p> <p>(3) The Authority shall give feedback, in writing, to the proposed issuer on the Information Memorandum by either approving or rejecting the application for approval of the proposed Green Bond issuance.</p> <p>(4) The approval shall be subject to the payment of the relevant fees as prescribed under these Regulations.</p>
<p><i>Disclosure and Continuous Reporting Obligations</i></p>	<p>1. The issuer of a Green Bond shall provide to investors and the Authority a Green Bond report, annually, for the duration of the Green Bond in line with reporting requirements in these Regulations.</p> <p>2. An issuer of a Green Bond shall be required to provide in its annual report, in addition to the requirements in paragraph 8 (a), the following –</p> <ul style="list-style-type: none"> (a) a brief description of the projects and the amounts disbursed, including the percentage of proceeds that have been allocated to different project types and to financing and refinancing of such projects; (b) where confidentiality agreements or competition considerations, or a large number of underlying projects limit the amount of detail that can be

	<p>disclosed, the information shall be presented to the investors, in generic terms or on an aggregated portfolio basis, with the Authority reserving the right to request detailed information for regulatory purposes;</p> <p>(c) the expected impact of the projects and assets;</p> <p>(d) the qualitative performance indicators, and, where feasible, quantitative performance measures of the impact of the projects;</p> <p>(e) the methodology and underlying assumptions used to prepare performance indicators and metrics; and</p> <p>(f) The annual report shall be reviewed and confirmed by the Independent Verifier.</p>
Project Selection Process	An issuer shall, in the information memorandum, provide criteria on how the issuer will select eligible projects.
Use and Management of Proceeds	<p>1. The proceeds of Green Bonds may only be used in the funding of eligible green projects.</p> <p>(a) Prior to the issuance of a Green Bond, the issuer must disclose to investors, in the documentation for issuance, the process for managing the net proceeds from the Green Bond.</p> <p>(b) Certain eligible projects may also have social co-benefits, in such circumstances, the use of proceeds should be determined by the issuer based on its primary objectives for the underlying projects prior to the issuance.</p> <p>(c) The net proceeds of the Green Bond must be tracked by the issuer in an appropriate manner quarterly or within any other period as the issuer may provide and attested to by a formal internal process linked to the issuer's lending and investment operations for eligible green projects.</p> <p>(d) At all times prior to a Green Bond maturing, the balance of the tracked proceeds shall be periodically adjusted to match allocations to eligible green projects made during that period.</p> <p>(e) An issuer shall disclose to investors in the prospectus, the intended types of temporary placement for the balance of the unallocated net proceeds of the Green Bond.</p> <p>(f) The issuer's management of proceeds shall be confirmed by an auditor, or other third party, to verify the issuer's internal tracking method and the allocation of funds from the proceeds of the Green Bond.</p>

	(g) Where an issuer appoints an auditor, such an issuer must make the report produced by the auditor or other third party publicly available on a website designated by the issuer at the time of the issuance of the Green Bond.
Consequences for Breach of Green Requirements by an Issuer of Unlisted Green Bonds	<p>1. Where there is a breach of the requirements under these Regulations or any other relevant laws by an issuer of unlisted Green Bond, the Authority shall communicate to the issuer concerning the breach and shall authorize the issuer to take remedial steps to rectify the breach, subject to an agreed timeframe between it and the Authority, in addition to any other action that the Authority may take.</p> <p>2. Where the issuer fails to take any remedial steps to rectify the breach, the Authority shall direct issuer to remove the green label on the Green Bond.</p> <p>3. The Authority shall have power to take any other enforcement action on the issuer for the breach or any other act of non-compliance with laws and regulations as it may deem fit and in the interest of the investors.</p> <p>4. Where the breach on the green requirement is by an issuer whose securities are listed on a Securities Exchange, the Listing Rules of such a Securities Exchange shall apply.</p>
Consequences for Breach of Green Requirements by an Issuer of a Listed Green Bond	The consequences for breach of green requirements by an issuer of a listed Green Bond shall be in accordance with the provisions of the Nairobi Securities Exchange Listing Rules or the rules of any other securities exchange approved by the Authority and as amended from time to time.
Suspension of a Green Bond	<p>1. Any action to suspend the trading of a Green Bond shall be undertaken subject to the provisions of these Regulations.</p> <p>2. The Authority may require the removal of the green label from an approved Green Bond where it is noted by the Authority or through the Independent Verifier's report that there has been greenwashing or the Green Bond has ceased to meet the prescribed eligibility requirements.</p> <p>3. In instances where greenwashing has occurred, the action may constitute a fraud on, or misrepresentation to investors and therefore may be punishable under the Laws of Kenya.</p>

SIXTH SCHEDULE

[r. 23(1)(a)]

MAIN INVESTMENT MARKET SEGMENT DISCLOSURE REQUIREMENTS FOR
PUBLIC OFFERINGS

1.	<i>Identity of directors, senior management and advisers i.e. persons responsible for the information disclosed</i>
1.1.	The name, home or business address and function of each of the persons giving the declaration set out in paragraph 1.2.
1.2.	<p>1.2.1. A declaration in the following form:</p> <p>The directors of [the issuer], whose names appear on page [] of the information memorandum, accept responsibility for the information contained in this document. To the best of the knowledge and belief of the directors (who have taken all reasonable care to ensure that such is the case) the information contained in this document is in accordance with facts and does not omit anything likely to affect the import of such information.</p> <p>1.2.2. Where applicable, a declaration by those responsible for certain parts of the Information memorandum that, to the best of their knowledge, the information contained in those parts of the information memorandum for which they are responsible is in accordance with the facts and that those parts of the information memorandum make no omission likely to affect their import.</p>
1.3.	The names, addresses, and qualifications of the auditors who have audited the issuer's annual accounts in accordance with International Standards of Auditing for the last three financial years.
1.4.	If auditors have resigned, have been removed or have not been re-appointed during the last three financial years and have deposited a statement with the issuer of circumstances which they believe should be brought to the attention of members and creditors of the issuer, details of such matters must be disclosed.
1.5.	The names, addresses and material interest including any negative statement of non-existence of material interest, if any in the issuer, of the issuer's bankers, legal advisers, sponsors, reporting accountants and any other expert to whom a statement or report included in the prospectus has been attributed.
2.	Offer statistics and expected timetable
2.1.	A statement that the Authority has approved the public offering and listing of the shares on the Main Investment Market Segment of a securities exchange and that such approval should not be considered as an endorsement of the issuer that is the subject of the Information memorandum.
2.2.	If the offer is by more than one method, for each method of offering, state the total amount of the issue, including the issue price and the basis of the price and the number of securities offered

2.3.	For each public offering, and separately for each group of targeted potential investors, state the following information to the extent applicable:
	<p data-bbox="523 450 1264 712">2.3.1. the period during which the offer will be open, and where and to whom purchase or subscription applications shall be addressed. Describe whether the purchase period may be extended or shortened, and the manner and duration of possible extensions or possible early closure or shortening of the period. Describe the manner in which the shortening shall be made public. If the exact dates are not known when the documents are first filed or distributed to the public, describe arrangement for announcing final or definitive date or period;</p> <p data-bbox="523 719 1264 752">2.3.2. the method and time limits for paying up for securities;</p> <p data-bbox="523 759 1264 846">2.3.3. the method and time limits for delivery of securities including provisional allocations, if applicable to subscribers or purchasers;</p> <p data-bbox="523 853 1264 981">2.3.4. in case of pre-emptive purchase rights, the procedure for the exercise of any right of pre-emption, the negotiability of subscription rights and the treatment of subscription rights not exercised; and</p> <p data-bbox="523 987 1264 1115">2.3.5. a full description of the manner in which results of the distribution of securities are to be made public, and when appropriate, the manner for refunding excess amounts paid by applicants including whether interest is to be paid.</p>
3.	Information on the issuer
3.1.	The name both legal and trading name, if any, registered office and, if different, head office of the issuer, the website and any other digital platforms of the issuer, with a disclaimer that the information on the website or any other digital platforms does not form part of the prospectus unless that information is incorporated by reference into the prospectus.
3.2.	The country of incorporation of the issuer.
3.3.	The date of incorporation and the length of life of the issuer, except where indefinite.
3.4.	The legislation under which the issuer operates and the legal form which it has adopted under that legislation.
3.5.	A description of the issuer's principal objects and activities, stating the main category of products sold or services performed, and the degree of any government protection and of any investment encouragement law affecting the business.
3.6.	The place and date of registration of the issuer and its registration number.
3.7.	The proposed new name, if any, the reasons for the change and whether or not approval to the change has been obtained from the shareholders and Registrar.

4.	Documents Available for Inspection
4.1.	<p>A statement that for the duration of the offer to which the prospectus relates including any extension thereof if applicable such named place as the Authority may agree (including an indication of the website on which the documents may be inspected), the following documents (or copies thereof), where applicable, could be inspected:</p> <ul style="list-style-type: none"> 4.1.1. the memorandum and articles (as applicable) of association of the issuer or any applicable constitutive document; 4.1.2. the latest certified appraisals or valuations relative to movable and immovable property and items of a similar nature, if applicable; 4.1.3. all reports, letters, and other documents, valuations and statements by any expert of any part of which is included or referred to in the prospectus; 4.1.4. the audited accounts of the issuer or, in the case of a group, the consolidated audited accounts of the group and its subsidiary undertakings for each of the five financial years preceding the publication of the prospectus, including, in the case of a company incorporated in Kenya, all notes, reports or information required by the Companies Act, 2015; and 4.1.5. All other documents that would be relevant and material for consideration by an investor.
4.2.	<p>Where any of the documents listed in paragraph 4.1 are not in the English language, translations into English must also be available for inspection. In the case of any document mentioned in paragraph 6.1 (material contracts), a translation of a summary of such document may be made available for inspection, if the Authority so requires.</p>
5.	Share Capital
5.1.	<p>The amount of the issuer's issued capital and the amount of any capital agreed to be issued, the number and classes of the shares of which it is composed with details of their principal characteristics. If any part of the issued capital is still to be paid up, a statement of the number, or total nominal value, and the type of the shares not yet fully paid up, broken down, where applicable, according to the extent to which they have been paid up. If more than ten per cent of capital has been paid for with assets other than cash within the period covered by the historical financial information, state that fact.</p>
5.2.	<p>Where the issuer has authorised but un-issued capital or is committed to increase the capital, an indication of:</p> <ul style="list-style-type: none"> 5.2.1. the amount of such authorised capital or capital increase and, where appropriate, the duration of the authorisation; 5.2.2. the categories of persons having preferential subscription rights for such additional portions of capital; and 5.2.3. the terms and arrangements for the share issue corresponding to such portions.

5.3.	The amount of any convertible securities, exchangeable securities or securities with warrants, with an indication of the conditions governing and the procedures for conversion, exchange or subscription.
5.4.	A summary of the provisions of the issuer's articles of association regarding changes in the capital and in the respective rights of the various classes of securities.
5.5.	A summary of the changes during the three preceding years in the amount of the issued capital of the issuer and, if material, the capital of any member of the group or the number and classes of securities of which it is composed.
5.6.	<p>The names of the persons who, directly or indirectly, jointly or severally, exercise or could exercise control over the issuer, and particulars of the proportion of the share capital held by such persons.</p> <p>For these purposes, joint control means control exercised by two or more persons who have concluded an agreement which may lead to their adopting a common policy in respect of the issuer.</p>
5.7.	Details of any change in controlling shareholder over the previous three years and any likely change as a result of the issue.
5.8.	<p>The history of any change in the trading objectives of the issuer and its subsidiaries during the previous two financial years. A statement of the new trading objectives, if any, and the manner in which the new objects will be implemented.</p> <p>If the issuer or the group, as the case may be, carries on widely differing operations, a statement showing the contributions of such respective differing operations to its trading results.</p>
5.9.	If the issuer has subsidiary undertakings or parent undertakings, a brief description of the group's undertakings and of the issuer's position within it stating, where the issuer is a subsidiary undertaking, the name of and number of shares in the issuer held (directly or indirectly) by each parent undertaking of the issuer.
6.	Material Contracts
6.1.	<p>A summary of the key contents of:</p> <ul style="list-style-type: none"> 6.1.1. each material contract (not being a contract entered into in the ordinary course of business) entered into by any member of the group, if any, including particulars of dates, parties, terms and conditions, any consideration passing to or from the issuer or any other member of the group. Unless such contracts are available for inspection in which case it will be sufficient to refer to them collectively as being available for inspection in accordance with paragraph 4.1; and 6.1.2. any contractual arrangement with a controlling shareholder required to ensure that the company is capable at all times of carrying on its business independently of any controlling shareholder, including particulars of dates, terms and conditions and any consideration passing to or from the issuer or any other member of the group.

6.2.	Details of the name of any promoter of any member of the group and the amount of any cash, securities or benefits paid, issued or given within the three years immediately preceding the date of publication of the prospectus, or proposed to be paid, issued or given to any such promoter in his capacity as a promoter and the consideration for such payment, issue or benefit. Where the interest of such promoter consists in being a member of a partnership, company, syndicate or other association of persons, the nature and extent of the interest of such partnership, company, syndicate or other association, and the nature and extent of such promoter's interest in the partnership, company, syndicate or other association.
6.3.	A statement of all sums paid or agreed to be paid within the three years immediately preceding the date of publication of the prospectus, to any director or to any company in which he is beneficially interested, directly or indirectly, or of which he is director, or to any partnership, syndicate or other association of which he is a member, in cash or securities or otherwise, by any person either to induce him to become or to qualify him as a director, or otherwise for services rendered by him or by the company, partnership, syndicate or other association in connection with the promotion or formation of the issuer.
6.4.	Where securities are issued in connection with any merger, division of a company, takeover offer, acquisition of an undertaking's assets and liabilities or transfer of assets – <ul style="list-style-type: none"> 6.4.1. a statement of the aggregate value of the consideration for the transaction and how it was or is to be satisfied; 6.4.2. if the total emoluments receivable by the directors of the issuer will be varied in consequence of the transaction, full particulars of the variation; if there will be no variation, a statement to that effect; and 6.4.3. if the business of the issuer or any of its subsidiaries or any part thereof is managed or is proposed to be managed by a third party under a contract or arrangement, the name and address (or the address of its registered office, if a company) of such third party and a description of the business so managed or to be managed and the consideration paid in terms of the contract or arrangement and any other pertinent details relevant to such contract or arrangement.
7.	Business Overview
7.1.	A description of the group's principal activities, stating the main categories of products sold or services performed. Where the issuer or its subsidiaries carries on or proposes to carry on two or more businesses which are material having regard to the profits or losses, assets employed or to be employed, or any other factor, information as to the relative importance of each such business.
7.2.	For the business described in paragraph 7.1 above, the degree of any government protection and of any investment encouragement law affecting the business.

7.3.	Information on any significant new products or activities that have been introduced and, to the extent the development of new products or services has been publicly disclosed, give the status of their development.
7.4.	A description of the principal markets in which the issuer competes, including a breakdown of total revenues by operating segment and geographic market for each financial year for the period covered by the historical financial information.
7.5.	Details of any material changes in the businesses of the issuer or the important events in the development of the issuer's business during the past five years.
7.6.	Where the information given pursuant to paragraphs 7.1 to 7.5 has been influenced by exceptional factors, that fact must be mentioned.'
7.7.	Summary of information on the extent to which the group is dependent, if at all, on patents or licences, industrial, commercial or financial contracts or new manufacturing processes, where such factors are of fundamental importance to the group's business or profitability.
7.8.	Particulars of royalties payable or items of a similar nature in respect of the issuer and any of its subsidiaries.
7.9.	Information on any legal or arbitration proceedings including, any such proceedings which are pending or threatened of which the issuer is aware of, which may have or have had in the recent past, covering at least the previous nine months, a significant effect on the group's financial position or an appropriate negative statement.
7.10.	Information on any interruptions in the group's business which may have or have had during the recent past covering at least the previous nine months a significant effect on the group's financial position.
7.11.	A description, with figures, of the main investments made, including interests such as shares, debt securities etc., in other undertakings over the last five financial years and during the current financial year.
7.12.	Information concerning the principal investments, including new plant, factories and research and development, during the current financial year being made, with the exception of interests being acquired in other undertakings, including – <div style="margin-left: 40px;">7.12.1. the geographical distribution of these investments; and</div> <div style="margin-left: 40px;">7.12.2. the method of financing such investments.</div>
7.13.	Information concerning the group's principal future investments, including new plant, factories, and research and development, if any, with the exception of interests to be acquired in other undertakings, on which the issuer's directors have already made firm commitments.
7.14.	Information concerning policy on the research and development of new products and processes over the past three financial years.
7.15.	The basis and source for any statements made by the issuer regarding its competitive position shall be disclosed.

8.	Operating and financial review and prospects, the recent development and prospects of the group and profit forecasts and estimates
8.1.	<p>Unless otherwise approved by the Authority in exceptional circumstances and to the extent necessary for an understanding of the issuer's business as a whole:</p> <p>8.1.1. general information on the trend of the group's business since the end of the financial year to which the last published annual accounts relate, and in particular: -</p> <ul style="list-style-type: none"> (i) the most significant recent trends in production, sales, stocks and the state of the order book; and (ii) recent trends in costs and selling prices. <p>8.1.2. Information on the group's prospects for at least the current financial year. Such information must relate to the financial and trading prospects of the group together with any material information which may be relevant thereto, including all special trade factors or risks (if any) which are not mentioned elsewhere in the prospectus and which are unlikely to be known or anticipated by the general public, and which could materially affect the profits.</p>
8.2.	Information on the risk factors that are specific to the issuer or its industry and make an offering speculative or on high risk in a section headed "Risk Factors and Mitigation Measures."
8.3.	<p>Description of the:</p> <p>8.3.1. extent to which the financial statements disclose material changes in net revenues, provide a narrative discussion of the extent to which such changes are attributable to changes in prices or to changes in the volume or amount of products or services being sold or to the introduction of new products or services;</p> <p>8.3.2. impact of inflation if material - if the currency in which financial statements are presented is of a country that has experienced hyperinflation, the existence of such inflation, a five year history of the annual rate of inflation and discussion of the impact of the hyperinflation on the issuer's business shall be disclosed;</p> <p>8.3.3. impact of foreign currency fluctuations on the issuer, if material, and the extent to which foreign currency net investments are hedged by the currency borrowing and other hedging instruments; and</p> <p>8.3.4. impact of any governmental factors that have materially affected or could materially affect, directly or indirectly, the issuer's operations or investments by the host country shareholders.</p>
8.4.	Where a profit forecast or estimate appears, the principal assumptions upon which the issuer has based its forecast or estimate must be stated. The

	forecast or estimate must be examined and reported on by the reporting accountants or auditors and their report must be set out. There must also be set out a report from the transaction advisor or a sponsor in the case of a SPAC confirming that the forecast has been made after due and careful enquiry by the directors.
8.5.	The opinion of the directors, stating the grounds therefor, as to the prospects of the business of the issuer and of its subsidiaries or business undertaking to be acquired, together with any material information which may be relevant.
9.	Directors and employees
9.1.	<p>The full name, age (or date of birth) home or business address, nationality and function in the group of each of the following persons and an indication of the principal activities performed by them outside the group where these are significant with respect to the group:</p> <ul style="list-style-type: none"> 9.1.1. directors, alternate and proposed directors of the issuer and each of its subsidiaries including details of other directorships; 9.1.2. the senior management of the issuer including the chief executive, board secretary and finance director, with details of professional qualifications and period of employment with the issuer for each such person; 9.1.3. founders, if the issuer has been established as a family business and the nature of family relationship, if any; and 9.1.4. detailed disclosure of chief executive or other senior management changes planned or expected during twenty-four months following the issue and listing of the security or appropriate negative statement.
9.2.	A description of other relevant business interests and activities of every such person as is mentioned in paragraph 9.1. and, if required by the Authority particulars of any former forename or surname of such persons.
9.3.	In the case of a foreign issuer, information similar to that described in 9.1. and 9.2 above, relative to the local management, if any. Where the Authority considers the parent company is not adequately represented on the directorate of its subsidiaries, an explanation shall be required.
9.4.	The total aggregate of the remuneration paid and benefits in kind granted to the directors of the issuer by any member of the group during the last two completed financial years under any description whatsoever.
9.5.	A statement showing the aggregate of the direct and indirect interests of the directors in, and the direct and indirect interests of each director holding in excess of 3% of the share capital of the issuer, distinguishing between beneficial and non-beneficial interests, or an appropriate negative statement. The statement should include by way of a note any change in those interests occurring between the end of the financial year and the date of publication of the prospectus, or if there has been no such change, disclosure of that fact.
9.6.	All relevant particulars regarding the nature and extent of any interests of directors of the issuer in transactions which are or were unusual in their nature or conditions or significant to the business of the group, and which were effected by the issuer during –

	<p>9.6.1. the current or immediately preceding financial year; or</p> <p>9.6.2. an earlier financial year and remain in any respect outstanding or unperformed; or</p> <p>9.6.3. an appropriate negative statement.</p>
9.7.	The total of any outstanding loans granted by any member of the group to the directors and of any guarantees provided by any member of the group for their benefit.
9.8.	Details of any schemes this involving the staff in the capital of any member of the group.
9.9.	Particulars of any arrangement under which a director of the issuer has waived or agreed to waive future emoluments together with particulars of waivers of such emoluments which occurred during the past financial year and particulars of waivers in force at the date of the prospectus.
9.10.	An estimate of the amounts payable to directors or proposed directors of the issuer, i , by any member of the group for the current financial year under the arrangements in force at the date of the listing prospectus.
9.11.	<p>Details of existing or proposed directors' service contracts (excluding contracts previously made available for inspection in accordance with paragraph 4.1 and not subsequently varied); such details to include the matters specified below or an appropriate negative statement:</p> <p>9.11.1. the name of the employing company;</p> <p>9.11.2. the date of the contract, the unexpired term and details of any notice periods;</p> <p>9.11.3. full particulars of the director's remuneration including salary and other benefits;</p> <p>9.11.4. any commission or profit sharing arrangements;</p> <p>9.11.5. any provision for compensation payable upon early termination of the contract;</p> <p>9.11.6. details of any other arrangements which are necessary to enable investors to estimate the possible liability of the company upon early termination of the contract; and</p> <p>9.11.7. details relating to restrictions prohibiting the director, or any person acting on his behalf or connected to him, from any dealing in securities of the company during a close period or at a time when the director is in possession of unpublished price sensitive information in relation to those securities.</p>
9.12.	<p>A summary of the provisions of the articles of association of the issuer with regards to –</p> <p>9.12.1. any power enabling a director to vote on a proposal, arrangement, or contract in which he is materially interested;</p> <p>9.12.2. any power enabling the directors, in the absence of an independent quorum, to vote remuneration, including pension or other benefits to themselves or any members of their body.</p>

9.13.	Any arrangement or understanding with major shareholders, customers, suppliers or others, pursuant to which any person referred to in 9.1 above, was selected as a director or member of senior management.
9.14.	The average number of employees and changes therein over the last five financial years, if such changes are material, with, if possible, a breakdown of persons employed by main categories of activity.
9.15.	Details relating to the issuer's audit committee, remuneration committee and nomination committee including the names of committee members and a summary of the terms of reference under which the committees operate.
10.	Organizational Structure
10.1.	If the issuer is part of a group, a brief description of the group and the issuer's position within the group. This may be in the form of, or accompanied by, a diagram of the organizational structure if this helps to clarify the structure.
10.2.	A list of the issuer's significant subsidiaries, including name, country of incorporation or residence, the proportion of ownership interest held and, if different, the proportion of voting power held.
11.	Major shareholders and related party transactions
11.1.	<p>The following information shall be provided regarding the issuer's major shareholders, which means shareholders that are the beneficial owners of at least 3% or more of each class of the issuer's voting securities:</p> <p>11.1.1. provide the names of the major shareholders, and the number of shares and the percentage of outstanding shares of each class owned by each of them as of the most recent practicable date, or an appropriate negative statement if there are no major shareholders;</p> <p>11.1.2. disclose any significant change in the percentage ownership held by any major shareholders during the past three years; and</p> <p>11.1.3. indicate whether the issuer's major shareholders have different voting rights, or an appropriate negative statement.</p>
11.2.	Information shall be provided on all major shareholders and their nationalities.
11.3.	To the extent known to the issuer, state whether the issuer is directly or indirectly owned, controlled or significantly influenced by any other corporation, foreign government or any other natural or legal person severally or jointly, and, if so, give the name of such controlling corporation, government or other person, and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote or a right to appoint or remove directors.
11.4.	Describe any arrangements, known to the issuer, the operation of which may at a subsequent date result in a change in control of the issuer.
11.5.	Provide the information required below for the period since the beginning of the issuer's preceding five financial years up to the date of the prospectus, with respect to transactions or loans between the issuer and:

	<p>11.5.1. enterprises that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with the issuer;</p> <p>11.5.2. associates;</p> <p>11.5.3. Enterprises owned by directors or major shareholders of the issuer and enterprises that have a number of key management in common with the issuer. Shareholders beneficially owning a 10% interest in the voting power of the issuer are presumed to have a significant influence on the issuer including:</p> <p>(a) the nature and extent of any transactions or presently proposed transactions which are material to the issuer or the related party, or any transactions that are unusual in their nature or conditions, involving goods, services, or tangible or intangible assets, to which the issuer or any of its parent or subsidiary was a party; and</p> <p>(b) the amount of outstanding loans, including guarantees of any kind made by the issuer or any of its parent or subsidiaries to or for the benefit of any of the persons listed above.</p> <p>The information given should include the largest amount outstanding during the period covered, the amount outstanding as of the latest practicable date, the nature of the loan, the transaction in which it was incurred, and the interest rate on the loan.</p>
11.6.	Full information of any material inter-company finance.
11.7.	Where a statement or report attributed to a person as an expert is included in the prospectus, a statement that it is included, in the form and context in which it is included, with the written consent of that person, who has authorised the contents of that part of the prospectus and has not withdrawn his consent.
11.8.	If any of the named experts employed on a contingent basis, owns an amount of shares in the issuer or its subsidiaries which is material to that person, or has a material, direct or indirect economic interest in the issuer or that depends on the success of the offering, provide a brief description of the nature and terms of such contingency or interest.
11.9.	Provide a certified copy of the share register to the Authority.
12.	Financial information
12.1.	A statement that the annual financial statements of the issuer for the preceding five financial years have been audited. If the auditor has issued any qualified or adverse opinion on the financial statements, such opinion must be reproduced in full and the reasons given.
12.2.	A statement of what other information in the prospectus has been audited by the auditors.
12.3.	Financial information as required by paragraphs 12.14 and 12.15 set out in the form of a comparative table together with any subsequent interim financial statements if available.

12.4.	Financial information as required by paragraphs 12.14 and 12.15 set out in the form of an accountants' report.
12.5.	If applicable, an accountants' report, as set out in paragraphs 12.14 and 12.15 on the asset which is the subject of the transaction.
12.6.	<p>12.6.1. If the issuer prepares consolidated annual accounts only, it must include those accounts in the prospectus in accordance with paragraph 12.3 or 12.4.</p> <p>12.6.2. If the issuer prepares both own and consolidated annual accounts, it must include both sets of accounts in the prospectus in accordance with paragraph 12.3 or 12.4. However, the issuer may exclude its own accounts on condition that they do not provide any significant additional information to that contained in the consolidated accounts with the approval of the Authority and such accounts shall be available for inspection in accordance with paragraph 4.1.</p>
12.7.	<p>12.7.1. Where the issuer includes its annual accounts in the prospectus, it must state the profit or loss per share arising out of the issuer's ordinary activities, after tax for each of the last five financial years.</p> <p>12.7.2. Where the issuer includes consolidated annual accounts in the prospectus, it must state the consolidated profit or loss per share for each of the preceding five financial years; this information must appear in addition to that provided in accordance with 12.7.1 above where the issuer also includes its own annual accounts in the prospectus.</p>
12.8.	If, in the course of the last five financial years, the number of shares in the issuer has changed as a result, for example, of an increase in or reduction or re-organization of capital, the profit or loss per share referred to in paragraph 12.7 must be adjusted to make them comparable; in that event the basis of adjustment used must be disclosed.
12.9.	<p>Particulars of the –</p> <p>12.9.1. dividend policy to be adopted;</p> <p>12.9.2. pro-forma statement of financial position prior to and immediately after the proposed issue of securities; and</p> <p>12.9.3. effect of the proposed issue of securities on the net asset value per share.</p> <p>The particulars in this paragraph must be prepared and presented in accordance with International Financial Reporting Standards (IFRS). If the issuer is a holding company, the information must be prepared in consolidated form.</p>
12.10	The amount of the total dividends, the dividend per share and the dividend cover for each of the last three financial years, adjusted, if necessary, to make it comparable in accordance with paragraph 12.8.
12.11	12.11.1. Where not more than nine months have elapsed since the end of the financial year to which the last published annual

	<p>accounts relate, an interim audited financial statement covering at least the first six months following the end of that financial year must be included in or appended to the prospectus. Where not more than six months have elapsed since the end of the financial year, un-audited financial statements covering the period preceding the six months shall be included in the prospectus of the issuer whose securities are already listed at a securities exchange.</p> <p>12.11.2. Where the issuer prepares consolidated annual accounts, the interim financial statements must either be consolidated statements or include a statement that, in the opinion of the issuer's directors, the interim financial statements enable investors to make an informed assessment of the results and activities of the group for the period.</p>
12.12	A description of any significant change in the financial or trading position of the group which has occurred since the end of the last financial period for which either audited financial statements or interim financial statements have been published, or an appropriate negative statement.
12.13	If the issuer's own annual or consolidated annual accounts do not give a true and fair view of the assets and liabilities, financial position and profits and losses of the group, more detailed or additional information must be given. In the case of issuers incorporated in a country where issuers are not obliged to draw up their accounts so as to give a true and fair view but are required to draw them up to an equivalent standard, the latter may be sufficient.
12.14	A table showing the changes in financial position of the group over each of the last five financial years in the form of a cash-flow statement.
12.15	<p>12.15.1. Information in respect of the matters listed below relating to each undertaking in which the issuer holds (directly or indirectly) on a long-term basis an interest in the capital that is likely to have a significant effect on the assessment of the issuer's own assets and liabilities, financial position or profits and losses –</p> <ul style="list-style-type: none"> (a) the name and address of the registered office; (b) the field of activity; (c) the proportion of capital held; (d) the issued capital; (e) the reserves; (f) the profit or loss arising out of ordinary activities, after tax, for the last financial year; (g) the value at which the issuer shows in its accounts the interest held; (h) any amount still to be paid up on shares held; (i) the amount of dividends received in the course of the last financial year in respect of shares held; and (j) the amount of the debts owed to and by the issuer with regard to the undertaking.

	<p>12.15.2. The items of information listed in 12.15.1 above must be given in any event for every undertaking in which the issuer has a direct or indirect participating interest, if the book value of that participating interest represents at least 20% of the capital and reserves of the issuer or if that interest accounts for at least 20% of the net profit or loss of the issuer or, in the case of a group, if the book value of that participating interest represents at least 20% of the consolidated net assets or at least 20% of the consolidated net profit or loss of the group.</p> <p>12.15.3. The information required by 12.15.1 (v) and (vi) above may be omitted where the undertaking in which a participating interest is held does not publish annual accounts.</p> <p>12.15.4. The information required by 12.15.1 (iv) to (x) above may be omitted if the annual accounts of the undertakings in which the participating interests are held are consolidated into the group annual accounts or, with the exception of 12.15.1 (i) and (x) above, if the value attributable to the interest under the equity method is disclosed in the annual accounts, provided that in the opinion of the Authority, the omission of the information is not likely to mislead the public with regard to the facts and circumstances, knowledge of which is essential for the assessment of the securities in question.</p>
12.16	<p>The name, registered office and proportion of capital held in respect of each undertaking not failing to be disclosed under paragraph 12.15.1(1) or 12.15.2 in which the issuer holds at least 20% of the capital. These details may be omitted when they are of negligible importance for the purpose of enabling investors and their investment advisers to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the issuer or group and of the rights attaching to the securities for which application is made.</p>
12.17	<p>When the prospectus includes consolidated annual accounts, disclosure of:</p> <p>12.17.1. the consolidation principles applied, which must be described explicitly where such principles are not consistent with IFRS;</p> <p>12.17.2. the names and registered offices of the undertakings included in the consolidation, where that information is important for the purpose of assessing the assets and liabilities, financial position and profits and losses of the issuer; it is sufficient to distinguish them by a symbol in the list of undertakings of which details are required in paragraph 12.15; and</p> <p>12.17.3. for each of the undertakings referred to in 12.17.2 above –</p> <ul style="list-style-type: none"> (i) the total proportion of third-party interests if annual accounts are wholly consolidated; or (ii) the proportion of the consolidation calculated on the basis of interests, if consolidation has been effected on a pro rata basis.

12.18	Particulars of any arrangement under which future dividends are waived or agreed to be waived.
12.19	<p>12.19.1. Details on a consolidated basis as at the most recent practicable date (which must be stated and which in the absence of exceptional circumstances must not be more than fourteen days prior to the date of publication of the prospectus) of the following, if material:</p> <ul style="list-style-type: none"> (a) the borrowing powers of the issuer and its subsidiaries exercisable by the directors and the manner in which such borrowing powers may be varied; (b) the circumstances, if applicable, under which the borrowing powers have been exceeded during the past three years. Any exchange control or other restrictions on the borrowing powers of the issuer or any of its subsidiaries; (c) the total amount of any loan capital outstanding in all members of the group, and loan capital created but un-issued, and term loans, distinguishing between loans guaranteed, un-guaranteed, secured (whether the security is provided by the issuer or by third parties), and unsecured; (d) all off-balance sheet financing by the issuer and any of its subsidiaries; (e) the total amount of all other borrowings and indebtedness in the nature of borrowing of the group, distinguishing between guaranteed, un-guaranteed, secured and unsecured borrowings and debts, including bank overdrafts, liabilities under acceptances (other than normal trade bills) or acceptance credits, hire purchase commitments and obligations under finance leases; (f) the total amount of any material commitments, lease payments and contingent liabilities or guarantees of the group; or (g) how the borrowings required to be disclosed under paragraphs (iii) to (vi) above arose, stating whether they arose from the purchase of assets by the issuer or any of its subsidiaries. <p>12.19.2. An appropriate negative statement must be given in each case where relevant, in the absence of any loan capital, borrowings, indebtedness and contingent liabilities described in (12.19.1) above. As a general rule, an account shall be taken of all liabilities and or guarantees between undertakings within the same group. A statement to that effect being made if necessary.</p> <p>12.19.3. For each item identified in 12.19.1, where applicable –</p>

	<p>(a) the names of the lenders if not debenture holders;</p> <p>(b) the amount, terms and conditions of repayment or renewal;</p> <p>(c) the rates of interest payable on each item;</p> <p>(d) details of the security, if any;</p> <p>(e) details of conversion rights; and</p> <p>(f) where the issuer or any of its subsidiaries has debts which are repayable within twelve months, state how the payments are to be financed.</p> <p>12.19.4. If the issuer prepares consolidated annual accounts, the principles laid down in paragraph 12.6 apply to the information set out in this paragraph 12.19.</p>
12.20	<p>Details of material loans by the issuer or by any of its subsidiaries stating –</p> <p>12.20.1. the date of the loan;</p> <p>12.20.2. to whom made;</p> <p>12.20.3. the rate of interest;</p> <p>12.20.4. if the interest is in arrears, the last date on which it was paid and the extent of the arrears;</p> <p>12.20.5. the period of the loan;</p> <p>12.20.6. the security held;</p> <p>12.20.7. the value of such security and the method of valuation;</p> <p>12.20.8. if the loan is unsecured, the reasons therefor; and</p> <p>12.20.9. if the loan was made to another company, the names and addresses of the directors of such company.</p>
12.21	<p>Details as described in paragraph 12.20 above of loans made or security furnished by the issuer or by any of its subsidiaries for the benefit of any director or manager or any associate of any director or manager.</p>
12.22	<p>Disclose how the loans receivable arose, stating whether they arose from the sale of assets by the issuer or any of its subsidiaries.</p>
12.23	<p>A statement that in the opinion of the directors, the issued capital of the issuer (including the amount to be raised in pursuance of this issue) is adequate for the purposes of the business of the issuer and of its subsidiaries for the foreseeable future. If the directors are of the opinion that it is inadequate, the extent of the inadequacy and the manner in which and the sources from which the issuer and its subsidiaries are to be financed. The statement should be supported by a report from the issuer's auditor, reporting accountant, investment banker, sponsoring stockbroker or other adviser acceptable to the Authority.</p>
12.24	<p>The foreseeable future should normally be construed as the nine months subsequent to the date of the publication of the prospectus.</p>

12.25	<p>The following information regarding the acquisition, within the last five years, or proposed acquisition by the issuer or any of its subsidiaries, of any securities in or the business undertaking of any other company or business enterprise or any immovable property or other property in the nature of a fixed asset (collectively called "the property") or any option to acquire such property shall be disclosed –</p> <p>12.25.1. the consideration, detailing that settled by the issue of securities, the payment by cash or by any other means, and securities detailing how any outstanding consideration is to be settled;</p> <p>12.25.2. details of the valuation of the property;</p> <p>12.25.3. any goodwill paid and how such goodwill was or is to be accounted for;</p> <p>12.25.4. any loans incurred, or to be incurred, to finance the acquisition, or proposed acquisition;</p> <p>12.25.5. the nature of title or interest acquired or to be acquired;</p> <p>12.25.6. details regarding the vendors as described in paragraph 14.1.</p>
12.26	<p>The following details regarding any property disposed of during the past five years, or to be disposed of, by the issuer, or any of its subsidiaries –</p> <p>12.26.1. the dates of any such disposal or proposed disposal;</p> <p>12.26.2. the consideration received, detailing that settled by the receipt of securities or cash or by any other means and detailing how any outstanding consideration is to be settled;</p> <p>12.26.3. details of the valuation of the property and name of valuer; and</p> <p>12.26.4. the names and addresses of the purchasers of assets sold. If any purchaser was a company, the names and addresses of the beneficial shareholders of the company. If any promoter or director had any interest, directly or indirectly, in such transaction or where any sponsor or director was a member of a partnership, syndicate or other association of persons which had such an interest, the names of any such promoter or director, and the nature and extent of his interest.</p>
12.27	Where the financial statements provided under paragraphs 12.1 to 12.5 are prepared in a currency other than Kenya shillings the same shall be translated to Kenya shillings in accordance with the applicable IFRS standard.
13.	The Offer and Listing
13.1.	An indication whether or not all the shares have been marketed or are available in whole or in part to the public in conjunction with the application.
13.2.	A statement of the resolutions, authorisations and approvals by virtue of which the shares have been or will be created or issued.
13.3.	The nature and amount of the issue.

13.4.	The number of shares which have been or will be created or issued, if predetermined.
13.5.	<p>13.5.1. A summary of the rights attaching to the shares for which application is made, and in particular the extent of the voting rights, entitlement to share in the profits and, in the event of liquidation, in any surplus and any other special rights. Where there is or is to be more than one class of shares of the issuer in issue, similar details must be given for each class.</p> <p>13.5.2. If the rights evidenced by the securities being offered or listed are or may be materially limited or qualified by the rights evidenced by any other class of securities or by the provisions of any contract or other documents, include information regarding such limitation or qualification and its effect on the rights evidenced by the securities to be listed or offered.</p>
13.6.	The time limit, if any, after which entitlement to dividend lapses and an indication of the person in whose favour the lapse operates.
13.7.	A statement regarding tax on the income from the shares withheld at source in the country of origin; and in Kenya.
13.8.	Arrangements for transfer of the shares and (where permitted) any restrictions on their free transferability (including provisions requiring transfers to be approved).
13.9.	The fixed date, if any, on which entitlement to dividends arises.
13.10	Other securities exchanges, if any, where admission to listing is being or will be sought.
13.11	The names and addresses of the issuer's registrar and paying agent for the shares in any other country where admission to listing has taken place.
13.12	<p>The following information must be given concerning the terms and conditions of the issue of the securities with respect to the listing at a securities exchange where such issue is being effected at the same time as the listing or has been effected within the three months preceding admission:</p> <p>13.12.1. a statement of any right of pre-emption of shareholders exercisable in respect of the shares or of the disapplication of such right and where applicable:</p> <p>(a) a statement of the reasons for the disapplication of such right, in such cases, the directors' justification of the issue price where the issue is for cash;</p> <p>(b) if the disapplication of the right of pre-emption is intended to benefit specific persons, the identity of those persons;</p> <p>13.12.2. the total amounts which have been or are being issued or placed and the number of shares offered, where applicable by category;</p> <p>13.12.3. if an issue has been or is being made simultaneously on the markets of two or more countries and if a tranche has been</p>

	<p>or is being reserved for any of these, details of any such tranche including –</p> <ul style="list-style-type: none"> (a) the issue price or offer, stating the nominal value or, in its absence, the accounting par value or the amount to be capitalized; (b) the issue premium and the amount of any expenses specifically charged to any subscriber or purchaser; and (c) the methods of payment of the price, particularly as regards the paying-up of shares which are not fully paid;
13.12.4.	the procedure for the exercise of any right of pre-emption, transferability of subscription rights and treatment of subscription rights not exercised;
13.12.5.	the period during which the issue or offer remained open or will remain open after publication of the prospectus, and the names of the receiving agents;
13.12.6.	<p>the names, addresses and descriptions of the persons underwriting or guaranteeing the issue and where the underwriter is a company, the description must include–</p> <ul style="list-style-type: none"> (a) the place and date of incorporation and registered number of the company; (b) the names of the directors of the company; (c) the name of the secretary of the company; (d) the bankers to the company; and (e) the authorised and issued share capital of the company.
13.12.7.	where not all of the issue has been or is being underwritten or guaranteed, a statement of the portion not covered;
13.12.8.	a statement or estimate of the overall amount or of the amount per share of the charges relating to the issue payable by the issuer, stating the total remuneration of the financial intermediaries, including the underwriting commission, margin, guarantee commission placing or selling agent's commission;
13.12.9.	the estimated net proceeds accruing to the issuer from the issue and the intended application of such proceeds. If the capital offered is more than the amount of the minimum subscription referred to in paragraph 13.13, the reasons for the difference between the capital offered and the said minimum subscription;
13.12.10.	if the prospectus provides for a green shoe option, the exact percentage of the green shoe and the intended application of the extra proceeds arising out of the green shoe option; and

	13.12.11. if the Issuer intends to use a shelf-prospectus the duration of validity of the shelf-prospectus, the reasons for the use of the shelf-prospectus, the projected time of different issues, and a statement of the total size of issue.
13.13	<p>The minimum amount which, in the opinion of the directors, must be raised by the issue of the securities in order to provide the amount , or, if any part thereof is to be defrayed in any other manner, the balance of the amounts required to be provided, in respect of each of the following matters:</p> <p>13.13.1. the purchase price of any property, as referred to in paragraph 12.25, purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;</p> <p>13.13.2. any preliminary expenses payable by the issuer, and any commission payable to any person in consideration for his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for or of his underwriting any securities of the issuer;</p> <p>13.13.3. the repayment of any monies borrowed in respect of any of the foregoing matters;</p> <p>13.13.4. working capital, stating the specific purposes for which it is to be used and the estimated amount required for each of such purposes;</p> <p>13.13.5. any other material expenditure, stating the nature and purpose thereof and the estimated amount in each case;</p> <p>13.13.6. the amounts to be provided in respect of the above stated matters aforesaid otherwise than out of the proceeds of the issue, and the sources from which those amounts are to be provided; and</p> <p>13.13.7. if the proceeds are being used directly or indirectly to acquire assets, other than in the ordinary course of business, briefly describe the assets and their cost. If the assets will be acquired from affiliates of the issuer or associates, disclose the person from whom they will be acquired and how the cost to the issuer will be determined.</p>
13.14	A description of the shares for which the application is made and, in particular, the number of shares and nominal value per share or, in the absence of nominal value, the accounting par value or the total nominal value, the exact designation or class, and coupons attached.
13.15	If shares are to be marketed and no such shares have previously been sold to the public, a statement of the number of shares made available to the market if any, and of their nominal value, or, if they have no nominal value, of their, accounting par value, or a statement of the total nominal value and, where applicable, a statement of the minimum offer price.
13.16	The securities exchange at which the shares will be listed and the dates on which the shares will be admitted to listing and on which trading will commence.

13.17	The names of the securities exchanges, if any, on which shares of the same class are already listed.
13.18	<p>Where the shares for which application is being made are shares of a class which is already listed, information regarding the price history of the securities to be offered or listed shall be disclosed as indicated from 13.19.1 to 13.19.3 below. This information shall be given with respect to the market price at the securities exchange at which the securities are listed in Kenya and the principal trading market outside Kenya. If significant trading suspensions occurred in the prior three years, the issuer shall disclose –</p> <p>13.18.1. for the five most recent full financial years, the annual high and low market prices;</p> <p>13.18.2. for the two most recent full financial years and any subsequent period, the high and low market prices for each full financial quarter; and</p> <p>13.18.3. for the most recent six months, the high and low market prices for each month.</p>
13.19	A statement whether the issuer assumes responsibility for the withholding of tax at source.
13.20	To the extent known to the issuer, indicate whether major shareholders, directors or members of the issuer's management, supervisory or administrative bodies intend to subscribe in the offering or whether any person intends to subscribe for more offering or whether any person intends to subscribe for more than five per cent of the offering.
13.21	Identify any group of targeted potential investors to whom the securities are offered. If the offering is being made simultaneously in the markets of two or more countries and if a tranche has been or is being reserved for any of these, indicate any such tranche.
13.22	If securities are reserved for allocation to any group of targeted investors, including, for example, offerings to existing shareholders, directors, or employees and past employees of the issuer or its subsidiaries, provide details of these and any other preferential allocation arrangements.
13.23	Indicate whether the amount of the offering could be increased by the issuer or vendor by the exercise of a green shoe option subject to a maximum of thirty per cent of the securities offered in the prospectus in case of over subscription of securities.
13.24	Indicate the amount, and outline briefly the plan of distribution, of any securities that are to be offered otherwise than through underwriters. If the securities are to be offered through the selling efforts of relevant intermediaries describe the plan of distribution and the terms of any agreement or understanding with such entities and identify the stockbroker or dealer that will participate in the offering stating the amount to be offered through each.
13.25	If the securities are to be offered in connection with the writing of exchange-traded call options where applicable, (in the case of issuers listed, in securities exchange outside Kenya) describe briefly such transactions.

13.26	Where there is a substantial disparity between the public offering price and the effective cash cost to directors or senior management, or affiliated persons, of securities acquired by them in transactions during the past five years, or which they have the right to acquire, include a comparison of the offer price in the proposed public offering and the effective cash contributions of such persons.
13.27	Disclose the amount and percentage of immediate dilution resulting from the offering, computed as the difference between the offering price per share and the net book value per share for the equivalent class of security, as of the latest balance sheet date.
13.28	In the case of a subscription offering to existing shareholders, disclose the amount and percentage of immediate dilution if they do not subscribe to the new offering.
13.29	<p>The following information on expenses shall be provided:</p> <p>13.29.1. the total amount of the discounts or commissions agreed upon by the underwriters or other placement or selling agents and the issuer shall be disclosed, as well as the percentage such commissions represent of the total amount of the offering and the amount of discounts or commissions per share;</p> <p>13.29.2. an itemized statement of the major categories of expenses incurred in connection with the issuance and distribution of the securities to be listed or offered and by whom the expenses are payable, if other than the issuer. The following expenses shall be disclosed and itemised-</p> <ul style="list-style-type: none"> (a) advertisement; (b) printing and distribution of prospectus; (c) approval and listing fees; (d) commissions to intermediaries; (e) Transaction advisory fees; (f) legal fees; and (g) underwriting fees. <p>13.29.3 if any of the securities are to be offered for the account of a selling shareholder, indicate the portion of such expenses to be borne by such shareholder. The information may be given subject to future contingencies. If the amounts of any items are not known, estimates shall be provided; and</p> <p>13.29.4 a statement or estimate of the overall amount, percentage and amount per share of the charges relating to the issue payable by the issuer, stating the total remuneration of the intermediaries, including the underwriting commission or margin, guarantee commission, placing or selling agent's commission.</p>
13.30	Disclose the minimum amount which in the opinion of the directors must be raised through the issue of securities in form of total subscriptions in shares and value.

13.31	Provide to the Authority signed copies of all agreements between the issuer and transaction advisory team before the offer opening date.
14.	Vendors
14.1.	The names and addresses of the vendors of any assets purchased or acquired by the issuer or any subsidiary company during the five years preceding the publication of the prospectus or proposed to be purchased, or acquired, on capital account and the amount paid or payable in cash or securities to the vendor. Where there is more than one separate vendor, the amount so paid or payable to each vendor, and the amount (if any) payable for goodwill or items of a similar nature. The cost of assets to the vendors and dates of purchase by them if within the preceding five financial years. Where the vendor is a company, the names and addresses of the beneficial shareholders, direct and indirect, of the company, if required by the Authority. Where this information is unobtainable, the reasons therefore are to be stated.
14.2.	State whether or not the vendors have given any indemnities, guarantees or warranties.
14.3.	State whether the vendors agreements preclude the vendors from carrying on business in competition with the issuer or any of its subsidiaries, or impose any other restriction on the vendor, and disclose details of any cash or other payment regarding restraint of trade and the nature of such restraint of trade.
14.4.	State how any liability for accrued taxation, or any apportionment, thereof to the date of acquisition, will be settled in terms of the vendors' agreements.
14.5.	Where securities are purchased in a subsidiary company, a reconciliation between the amounts paid for the securities and the value of the net assets of that company. Where securities are purchased in companies other than subsidiary companies, a statement as to how the value of the securities was arrived at.
14.6.	Where any promoter or director had any beneficial interest, direct or indirect, in such transaction or where any promoter or director was a member of a partnership, syndicate or other association of persons which had such an interest, the names of any such promoter or director, and the nature and extent of his interest. Where the vendors or any of them are a partnership, the members of the partnership shall not be treated as separate vendors.
14.7.	The amount of any cash or securities paid or benefit given within five preceding years or proposed to be paid or given to any promoter not being a director, and the consideration for such payment or benefit.
14.8.	State whether the assets acquired have been transferred into the name of the issuer or any of its subsidiary companies and whether or not the assets have been ceded or pledged.

SEVENTH SCHEDULE

*[r. 23(1)(b)]*DISCLOSURE REQUIREMENTS FOR LISTING BY INTRODUCTION IN THE
MAIN INVESTMENT MARKET SEGMENT

1.	Directors and Advisers
1.1.	<p>(a) A declaration in the following form:</p> <p>The directors of [the issuer], whose names appear on page [] of the information memorandum, accept responsibility for the information contained in this document. To the best of the knowledge and belief of the directors (who have taken all reasonable care to ensure that such is the case) the information contained in this document accurate and does not omit anything likely to affect the import of such information.</p> <p>(b) Where applicable, a declaration by those responsible for certain parts of the Information memorandum that, to the best of their knowledge, the information contained in those parts of the information memorandum for which they are responsible is in accordance with the facts and that those parts of the information memorandum make no omission likely to affect their import.</p>
1.2.	The name, home or business address and function of each of the persons giving the declaration set out in paragraph 1.1.
1.3.	The names, addresses, qualifications of the auditors who have audited the issuer's annual accounts in accordance with International Standards of Accounting and Reporting (ISAR) for the last three financial years.
1.4.	If auditors have resigned, have been removed or have not been re-appointed during the last three financial years and have deposited a statement with the issuer of circumstances which they believe should be brought to the attention of members and creditors of the issuer, details of such matters must be disclosed.
1.5.	The names, addresses, and material interests including any negative statement of non-existence of material interests, if any in the issuer, of the issuer's bankers, legal advisers, sponsors, reporting accountants and any other expert to whom a statement or report included in the Information Memorandum has been attributed.
2.	Listing Statistics
2.1.	2.1.1. A statement that the Authority has approved the listing of the securities on the relevant market segment of a securities exchange and that such approval should not be considered as an endorsement of the issuer that is the subject of the Information Memorandum.
2.2.	The proposed listing price and the basis of determining the price.
2.3.	The total amount of the securities to be listed.

3.	Information on the issuer, Documents Available for Inspection, Share Capital and Business Overview
3.1.	The name (both legal and trading name, if any), registered office and, if different, head office of the issuer the website of the issuer and any other digital platform of the Issuer (with a disclaimer that the information on the website or any other digital platforms does not form part of the prospectus unless that information is incorporated by reference into the prospectus).
3.2.	The country of incorporation of the issuer.
3.3.	The date of incorporation and the length of life of the issuer, except where indefinite.
3.4.	The legislation under which the issuer operates and the legal form which it has adopted under that legislation.
3.5.	A description of the issuer's principal objects and activities, stating the main category of products sold or services performed, and the degree of any government protection and of any investment encouragement law affecting the business.
3.6.	The place and date of registration of the issuer and its registration number.
3.7.	The proposed new name, if any, the reasons for the change and whether or not approval to the change has been obtained from the shareholders and Registrar.
3.8.	<p>A statement that for a period of not more than fourteen days before the date of listing, during the period of listing including any extension thereof and until fourteen days after the date of listing, at a named place as the Authority may agree (including an indication of the website on which the documents may be inspected), the following documents (or copies thereof), where applicable, could be inspected:</p> <ul style="list-style-type: none"> 3.8.1. the Information Memorandum; 3.8.2. the constitutive documents of the issuer; 3.8.3. the latest certified appraisals or valuations relative to movable and immovable property and items of a similar nature, if applicable; 3.8.4. all reports, letters, and other documents, valuations and statements by any expert any part of which is included or referred to in the Information Memorandum; 3.8.5. the audited accounts of the issuer or, in the case of a group, the consolidated audited accounts of the issuer and its subsidiary undertakings for each of the five financial years preceding the publication of the Information Memorandum, including, in the case of a company incorporated in Kenya, all notes, reports or information required by the Companies Act, 2015; and 3.8.6. all other documents that would be relevant and material for consideration by an investor.

3.9.	Where any of the documents listed in paragraph 3.8 are not in the English language, translations into English must also be available for inspection. In the case of any document mentioned in paragraph 5.1 (material contracts), a translation of a summary of such document may be made available for inspection, if the Authority so requires.
4.	Share Capital
4.1.	The amount of the issuer's authorised and issued capital, the number and classes of the shares of which it is composed with details of their principal characteristics. If any part of the issued capital is still to be paid up, a statement of the number, or total nominal value, and the type of the shares not yet fully paid up, broken down, where applicable, according to the extent to which they have been paid up.
4.2.	Where the issuer has authorised but un-issued capital or is committed to increase the capital, an indication of: <ul style="list-style-type: none"> 4.2.1. the amount of such authorised capital or capital increase and, where appropriate, the duration of the authorisation; 4.2.2. the categories of persons having preferential subscription rights for such additional portions of capital; and 4.2.3. the terms and arrangements for the share issue corresponding to such portions.
4.3.	The amount of any convertible securities, exchangeable securities or securities with warrants, with an indication of the conditions governing and the procedures for conversion, exchange or subscription.
4.4.	A summary of the provisions of the issuer's constitutive documents regarding the respective rights of the various classes of securities.
4.5.	A summary of the changes during the three preceding years in the amount of the issued capital of the issuer and, if material, the capital of any member of the group or the number and classes of securities of which it is composed.
4.6.	The names of the persons who, directly or indirectly, jointly or severally, exercise or could exercise control over the issuer, and particulars of the proportion of the voting capital held by such persons. For these purposes, joint control means control exercised by two or more persons who have concluded an agreement which may lead to their adopting a common policy in respect of the issuer
4.7.	A statement of the new trading objectives, if any, and the manner in which the new objects will be implemented. If the issuer or the group, as the case may be, carries on widely differing operations, a statement showing the contributions of such respective differing operations to its trading results.
4.8.	If the issuer has subsidiary undertakings or parent undertakings, a brief description of the group of undertakings and of the issuer's position within it stating, where the issuer is a subsidiary undertaking, the name of and number of shares in the issuer held (directly or indirectly) by each parent undertaking of the issuer.

5.	Material Contracts
5.1.	<p>A summary of the principal contents of:</p> <p>5.1.1. each material contract entered into by any member of the group, if any, including particulars of dates, parties, terms and conditions, any consideration passing to or from the issuer or any other member of the group, unless such contracts have been available for inspection in the last two years in which case it will be sufficient to refer to them collectively as being available for inspection in accordance with paragraph 3.8; and</p> <p>5.1.2. any contractual arrangement with a controlling shareholder required to ensure that the company is capable at all times of carrying on its business independently of any controlling shareholder, including particulars of dates, terms and conditions and any consideration passing to or from the issuer or any other member of the group.</p>
5.2.	<p>Where securities are listed in connection with any merger, division of a company, takeover offer, acquisition of an undertaking's assets and liabilities or transfer of assets:</p> <p>5.2.1. a statement of the aggregate value of the consideration for the transaction and how it was or is to be satisfied;</p> <p>5.2.2. if the total emoluments receivable by the directors of the issuer will be varied in consequence of the transaction, full particulars of the variation; if there will be no variation, a statement to that effect; and</p> <p>5.2.3. if the business of the issuer or any of its subsidiaries or any part thereof is managed or is proposed to be managed by a third party under a contract or arrangement, the name and address (or the address of its registered office, if a company) of such third party and a description of the business so managed or to be managed and the consideration paid in terms of the contract or arrangement and any other pertinent details relevant to such contract or arrangement.</p>
6.	Business Overview
6.1.	A description of the group's principal activities, stating the main categories of products sold or services performed. Where the issuer or its subsidiaries carries on or proposes to carry on two or more businesses which are material having regard to the profits or losses, assets employed or to be employed, or any other factor, information as to the relative importance of each such business.
6.2.	Information on any significant new products or activities that have been introduced and, to the extent the development of new products or services has been publicly disclosed, give the status of their development.
6.3.	A description of the principal markets in which the issuer competes, including a breakdown of total revenues by operating segment and geographic market for each financial year for the period covered by the historical financial information.

6.4.	Details of any material changes in the businesses of the issuer or the important events in the development of the issuer's business during the past five years.
6.5.	Where the information given pursuant to paragraphs 6.1 to 6.5 has been influenced by exceptional factors, that fact must be mentioned.
6.6.	Summary of information on the extent to which the group is dependent, if at all, on patents or licences, industrial, commercial or financial contracts or new manufacturing processes, where such factors are of fundamental importance to the group's business or profitability.
6.7.	Particulars of royalties payable or items of a similar nature in respect of the issuer and any of its subsidiaries.
6.8.	Information on any legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the issuer is aware) which may have or have had in the recent past (covering at least the previous nine months) a significant effect on the group's financial position or an appropriate negative statement.
6.9.	Information on any interruptions in the group's business which may have or have had during the recent past (covering at least the previous nine months) a significant effect on the group's financial position.
6.10.	A description, with figures, of the main investments made, including interests such as shares, debt securities etc., in other undertakings over the last five financial years and during the current financial year.
6.11.	Information concerning policy on the research and development of new products and processes.
6.12.	The basis for any statements made by the issuer regarding its competitive position shall be disclosed.
7.	Operating and financial review (the recent development and prospects of the group) and Profit Forecasts and Estimates
7.1.	<p>Unless otherwise approved by the Authority in exceptional circumstances and to the extent necessary for an understanding of the issuer's business as a whole: -</p> <p>7.1.1. general information on the trend of the group's business since the end of the financial year to which the last published annual accounts relate, and in particular:</p> <p>(a) the most significant recent trends in production, sales, stocks and the state of the order book; and</p> <p>(b) recent trends in costs and selling prices; and</p> <p>7.1.2. Information on the group's prospects for at least the current financial year. Such information must relate to the financial and trading prospects of the group together with any material information which may be relevant thereto, including all special trade factors or risks (if any) which are not mentioned elsewhere in the Information Memorandum and which are unlikely to be known or anticipated by the general public, and which could materially affect the profits.</p>

7.2.	Provide information on the risk factors that are specific to the issuer or its industry in a section headed "Risk Factors" and highlight those that make the security speculative or high risk.
7.3.	Describe: <ul style="list-style-type: none"> 7.3.1. the extent to which the financial statements disclose material changes in net revenues, provide a narrative discussion of the extent to which such changes are attributable to changes in prices or to changes in the volume or amount of products or services being sold or to the introduction of new products or service; 7.3.2. the impact of inflation if material - if the currency in which financial statements are presented is of a country that has experienced hyperinflation, the existence of such inflation, a five-year history of the annual rate of inflation and discussion of the impact of the hyperinflation on the issuer's business shall be disclosed; 7.3.3. the impact of foreign currency fluctuations on the issuer, if material, and the extent to which foreign currency net investments are hedged by the currency borrowing and other hedging instruments; and 7.3.4. the impact of any governmental factors that have materially affected or could materially affect, directly or indirectly, the issuer's operations or investments by the host country shareholders.
7.4.	Where a profit forecast or estimate appears, the principal assumptions upon which the issuer has based its forecast or estimate must be stated. Where so required, the forecast or estimate must be examined and reported on by the reporting accountants or auditors and their report must be set out. There must also be set out a report from the sponsor confirming that the forecast has been made after due and careful enquiry by the directors.
7.5.	The opinion of the directors, stating the grounds therefore, as to the prospects of the business of the issuer and of its subsidiaries and of any subsidiary or business undertaking to be acquired, together with any material information which may be relevant thereto.
8.	Directors and employees
8.1.	The full name, age (or date of birth) home or business address, nationality and function in the group of each of the following persons and an indication of the principal activities performed by them outside the group where these are significant with respect to the group: <ul style="list-style-type: none"> 8.1.1. directors, alternate and proposed directors of the issuer and each of its subsidiaries including details of other directorships; 8.1.2. the senior management of the issuer including the chief executive, board secretary and finance director, with details of professional qualifications and period of employment with the issuer for each such person; and

	<p>8.1.3. founders, if the issuer has been established as a family business or in existence for fewer than five years and the nature of family relationship, if any.</p> <p>8.1.4. detailed disclosure of chief executive or other senior management changes planned or expected during twenty-four months following the listing of the security or appropriate negative statement.</p>
8.2.	A description of other relevant business interests and activities of every such person as is mentioned in paragraph 8.1 and, if required by the Authority particulars of any former forename or surname of such persons.
8.3.	In the case of a foreign issuer, information similar to that described in 8.1 and 8.2 above, relative to the local management, if any. Where the Authority considers the parent company is not adequately represented on the directorate of its subsidiaries, an explanation is required.
8.4.	The total aggregate of the remuneration paid and benefits in kind granted to the directors of the issuer by any member of the group during the last two completed financial years under any description whatsoever.
8.5.	A statement showing the aggregate of the direct and indirect interests of the directors in, and the direct and indirect interests of each director holding in excess of three per centum of the share capital of the issuer, distinguishing between beneficial and non-beneficial interests, or an appropriate negative statement. The statement should include by way of a note any change in those interests occurring between the end of the financial year and the date of publication of the Information Memorandum, or if there has been no such change, disclosure of that fact.
8.6.	<p>All relevant particulars regarding the nature and extent of any interests of directors of the issuer in transactions which are or were unusual in their nature or conditions or significant to the business of the group, and which were effected by the issuer during –</p> <p>8.6.1. the current or immediately preceding financial year; or</p> <p>8.6.2. an earlier financial year and remain in any respect outstanding or unperformed; or</p> <p>8.6.3. an appropriate negative statement.</p>
8.7.	The total of any outstanding loans granted by any member of the group to the directors and also of any guarantees provided by any member of the group for their benefit.
8.8.	Details of any schemes for involving the staff in the capital of any member of the group.
8.9.	Particulars of any arrangement under which a director of the issuer has waived or agreed to waive future emoluments together with particulars of waivers of such emoluments which occurred during the past financial year and particulars of waivers in force at the date of the Information Memorandum.

8.10.	An estimate of the amounts payable to directors of the issuer, including proposed directors, by any member of the group for the current financial year under the arrangements in force at the date of the listing Information Memorandum.
8.11.	<p>Details of existing or proposed directors' service contracts (excluding contracts previously made available for inspection in accordance with paragraph 3.8 and not subsequently varied); such details to include the matters specified in paragraphs 8.11.1 to 8.11.7 or an appropriate negative statement:</p> <p>8.11.1. the name of the employing company;</p> <p>8.11.2. the date of the contract, the unexpired term and details of any notice periods;</p> <p>8.11.3. full particulars of the director's remuneration including salary and other benefits;</p> <p>8.11.4. any commission or profit-sharing arrangements;</p> <p>8.11.5. any provision for compensation payable upon early termination of the contract;</p> <p>8.11.6. details of any other arrangements which are necessary to enable investors to estimate the possible liability of the company upon early termination of the contract; and</p> <p>8.11.7. details relating to restrictions prohibiting the director, or any person acting on his behalf or connected to him, from any dealing in securities of the company during a close period or at a time when the director is in possession of unpublished price sensitive information in relation to those securities.</p>
8.12.	<p>A summary of the provisions of the constitutive documents of the issuer regarding:</p> <p>8.12.1. any power enabling a director to vote on a proposal, arrangement, or contract in which he is materially interested; and</p> <p>8.12.2. any power enabling the directors, in the absence of an independent quorum, to vote remuneration (including pension or other benefits) to themselves or any members of their body.</p>
8.13.	Any arrangement or understanding with major security holders, customers, suppliers or others, pursuant to which any person referred to in 8.1, was selected as a director or member of senior management.
8.14.	The average numbers of employees and changes therein over the last five financial years (if such changes are material), with, if possible, a breakdown of persons employed by main categories of activity.
8.15.	Details relating to the issuer's audit committee, remuneration committee and nomination committee including the names of committee members and a summary of the terms of reference under which the committees operate.

9.	Organizational Structure
9.1.	If the issuer is part of a group, a brief description of the group and the issuer's position within the group. This may be in the form of, or accompanied by, a diagram of the organizational structure if this helps to clarify the structure.
9.2.	A list of the issuer's subsidiaries, including name, country of incorporation or residence, the proportion of ownership interest held and, if different, the proportion of voting power held.
10.	Major shareholders and related party transactions
10.1.	<p>The following information shall be provided regarding the issuer's major security holders, which means security holders that are the beneficial owners of at least three per cent or more of each class of the issuer's voting securities:</p> <ul style="list-style-type: none"> 10.1.1. provide the names of the major security holders, and the number of securities and the percentage of outstanding securities of each class owned by each of them as of the most recent practicable date, or an appropriate negative statement if there are no major security holders; 10.1.2. disclose any significant change in the percentage ownership held by any major security holders during the past three years; and 10.1.3. indicate whether the issuer's major security holders have different voting rights, or an appropriate negative statement.
10.2.	Information shall be provided on all major shareholders and their nationalities.
10.3.	To the extent known to the issuer, state whether the issuer is directly or indirectly owned controlled, or significantly influenced or controlled by any other corporation, foreign government or any other natural or legal person severally or jointly, and, if so, give the name of such controlling corporation, government or other person, and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote or a right to appoint or remove directors.
10.4.	Describe any arrangements, known to the issuer, the operation of which may at a subsequent date result in a change in control of the issuer.
10.5.	<p>Provide the information required below for the period since the beginning of the issuer's preceding five financial years up to the date of the Information Memorandum, with respect to transactions or loans between the issuer and:</p> <ul style="list-style-type: none"> 10.5.1. enterprises that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the issuer; 10.5.2. associates; 10.5.3. Enterprises owned by directors or major security holders of the issuer and enterprises that have a number of key management in common with the issuer. Shareholders

	<p>beneficially owning ten per cent interest in the voting power of the issuer are presumed to have a significant influence on the issuer including:</p> <p>(a) the nature and extent of any transactions or presently proposed transactions which are material to the issuer or the related party, or any transactions that are unusual in their nature or conditions, involving goods, services, or tangible or intangible assets, to which the issuer or any of its parent or subsidiary was a party; and</p> <p>(b) the amount of outstanding loans (including guarantees of any kind) made by the issuer or any of its parent or subsidiaries to or for the benefit of any of the persons listed above.</p> <p>The information given should include the largest amount outstanding during the period covered, the amount outstanding as of the latest practicable date, the nature of the loan, the transaction in which it was incurred, and the interest rate on the loan.</p>
10.6.	Full information of any material inter-company finance.
10.7.	Where a statement or report attributed to a person as an expert is included in the prospectus, a statement that it is included, in the form and context in which it is included, with the written consent of that person, who has authorised the contents of that part of the Information Memorandum and has not withdrawn his consent.
10.8.	If any of the named experts employed on a contingent basis, owns an amount of securities in the issuer or its subsidiaries which is material to that person, or has a material, direct or indirect economic interest in the issuer or that depends on the success of the listing, provide a brief description of the nature and terms of such contingency or interest.
11.	Financial information
11.1.	A statement that the annual accounts of the issuer for the last five financial years have been audited. If audit reports on any of those accounts have been refused by the auditors or contain qualifications, such refusal or such qualifications must be reproduced in full and the reasons given.
11.2.	A statement of what other information in the Information Memorandum has been audited by the auditors.
11.3.	Financial information as required by paragraphs 11.14 and 11.15 set out in the form of a comparative table together with any subsequent interim financial statements if available.
11.4.	Financial information as required by paragraphs 11.14 and 11.15 set out in the form of an accountants' report.
11.5.	If applicable, an accountants' report, as set out in paragraphs 11.14 and 11.15 on the asset which is the subject of the transaction.

11.6.	<p>11.6.1. If the issuer prepares consolidated annual accounts only, it must include those accounts in the Information Memorandum in accordance with paragraph 11.3 or 11.4.</p> <p>11.6.2. If the issuer prepares both own and consolidated annual accounts, it must include both sets of accounts in the prospectus in accordance with paragraph 11.3 or 11.4. However, the issuer may exclude its own accounts on condition that they do not provide any significant additional information to that contained in the consolidated accounts with the approval of the Authority and such accounts shall be available for inspection in accordance with paragraph 3.7.</p>
11.7.	<p>11.7.1. Where the issuer includes its annual accounts in the Information Memorandum, it must state the profit or loss per share arising out of the issuer's ordinary activities, after tax for each of the last five financial years.</p> <p>11.7.2. Where the issuer includes consolidated annual accounts in the Information Memorandum, it must state the consolidated profit or loss per share for each of the last five financial years; this information must appear in addition to that provided in accordance with 11.7.1 where the issuer also includes its own annual accounts in the Information Memorandum.</p>
11.8.	If, in the course of the last five financial years, the number of shares in the issuer has changed as a result, for example, of an increase in or reduction or reorganisation of capital, the profit or loss per share referred to in paragraph 11.7 must be adjusted to make them comparable; in that event the basis of adjustment used must be disclosed.
11.9.	Particulars of the dividend policy to be adopted which should be prepared in accordance with the International Financial Reporting Standards (IFRS).
11.10.	The amount of the total dividends, the dividend per share and the dividend cover for each of the last two financial years, adjusted, if necessary, to make it comparable in accordance with paragraph 11.8.
11.11.	A description of any significant change in the financial or trading position of the group which has occurred since the end of the last financial period for which either audited financial statements or interim financial statements have been published, or an appropriate negative statement.
11.12.	If the issuer's own annual or consolidated annual accounts do not give a true and fair view of the assets and liabilities, financial position and profits and losses of the group, more detailed or additional information must be given. In the case of issuers incorporated in a country where issuers are not obliged to draw up their accounts so as to give a true and fair view, but are required to draw them up to an equivalent standard, the latter may be sufficient.
11.13.	A table showing the changes in financial position of the group over each of the last five financial years in the form of a cash-flow statement.
11.14.	Information in respect of the matters listed below relating to each undertaking in which the issuer holds (directly or indirectly) on a long-term basis an interest in the capital that is likely to have a significant effect on the

	<p>assessment of the issuer's own assets and liabilities, financial position or profits and losses:</p> <ul style="list-style-type: none"> (a) the name and address of the registered office; (b) the field of activity; (c) the proportion of capital held; (d) the issued capital; (e) the reserves; (f) the profit or loss arising out of ordinary activities, after tax, for the last financial year; (g) the value at which the issuer shows in its accounts the interest held; (h) any amount still to be paid up on securities held; (i) the amount of dividends received in the course of the last financial year in respect of shares held; and (j) the amount of the debts owed to and by the issuer with regard to the undertaking. <p>11.14.2. The items of information listed in 11.14.1 must be given in any event for every undertaking in which the issuer has a direct or indirect participating interest, if the book value of that participating interest represents at least twenty per cent of the capital and reserves of the issuer or if that interest accounts for at least twenty per centum of the net profit or loss of the issuer or, in the case of a group, if the book value of that participating interest represents at least twenty per centum of the consolidated net assets or at least twenty per centum of the consolidated net profit or loss of the group.</p> <p>11.14.3. The information required by 11.14.1 (v) and (vi) may be omitted where the undertaking in which a participating interest is held does not publish annual accounts.</p> <p>11.14.4. The information required by 11.14.1 (iv) to (x) may be omitted if the annual accounts of the undertakings in which the participating interests are held are consolidated into the group annual accounts or, with the exception of 11.14.1 (i) and (x), if the value attributable to the interest under the equity method is disclosed in the annual accounts, provided that in the opinion of the Authority, the omission of the information is not likely to mislead the public with regard to the facts and circumstances, knowledge of which is essential for the assessment of the securities in question.</p>
11.15.	<p>The name, registered office and proportion of capital held in respect of each undertaking not failing to be disclosed under paragraph 11.14.1 or 11.14.2 in which the issuer holds at least twenty per centum of the capital. These details may be omitted when they are of negligible importance for the purpose of enabling investors and their investment advisers to make an</p>

	informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the issuer or group and of the rights attaching to the securities to be listed.
11.16.	<p>When the Information Memorandum includes consolidated annual accounts, disclosure:</p> <p>11.16.1. of the consolidation principles applied (which must be described explicitly where such principles are not consistent with International Financial Reporting Standards (IFRS);</p> <p>11.16.2. of the names and registered offices of the undertakings included in the consolidation, where that information is important for the purpose of assessing the assets and liabilities, financial position and profits and losses of the issuer; it is sufficient to distinguish them by a symbol in the list of undertakings of which details are required in paragraph 11.14; and</p> <p>11.16.3. for each of the undertakings referred to in 11.16.2:</p> <p>(a) the total proportion of third-party interests, if annual accounts are wholly consolidated; or</p> <p>(b) the proportion of the consolidation calculated on the basis of interests, if consolidation has been effected on a pro rata basis.</p>
11.17.	Particulars of any arrangement under which future dividends are waived or agreed to be waived.
11.18.	<p>11.18.1. Details on a consolidated basis as at the most recent practicable date (which must be stated and which in the absence of exceptional circumstances must not be more than fourteen days prior to the date of publication of the Information Memorandum) of the following, if material:</p> <p>(a) the borrowing powers of the issuer and its subsidiaries exercisable by the directors and the manner in which such borrowing powers may be varied;</p> <p>(b) the circumstances, if applicable, under which the borrowing powers have been exceeded during the past three years. Any exchange control or other restrictions on the borrowing powers of the issuer or any of its subsidiaries;</p> <p>(c) the total amount of any loan capital outstanding in all members of the group, and loan capital created but un-issued, and term loans, distinguishing between loans guaranteed, un-guaranteed, secured (whether the security is provided by the issuer or by third parties), and unsecured;</p> <p>(d) all off-balance sheet financing by the issuer and any of its subsidiaries;</p>

	<p>(e) the total amount of all other borrowings and indebtedness in the nature of borrowing of the group, distinguishing between guaranteed, un-guaranteed, secured and unsecured borrowings and debts, including bank overdrafts, liabilities under acceptances (other than normal trade bills) or acceptance credits, hire purchase commitments and obligations under finance leases;</p> <p>(f) the total amount of any material commitments, lease payments and contingent liabilities or guarantees of the group; or</p> <p>(g) how the borrowings required to be disclosed under paragraphs (iii) to (vi) arose, stating whether they arose from the purchase of assets by the issuer or any of its subsidiaries.</p> <p>11.18.2. An appropriate negative statement must be given in each case where relevant, in the absence of any loan capital, borrowings, indebtedness and contingent liabilities described in 11.18.1. As a general rule, no account shall be taken of liabilities or guarantees between undertakings within the same group, a statement to that effect being made if necessary.</p> <p>11.18.3. For each item identified in 11.18.1, where applicable –</p> <p>(a) the names of the lenders if not debenture holders;</p> <p>(b) the amount, terms and conditions of repayment or renewal;</p> <p>(c) the rates of interest payable on each item;</p> <p>(d) details of the security, if any;</p> <p>(e) details of conversion rights; and</p> <p>(f) where the issuer or any of its subsidiaries has debts which are repayable within twelve months, state how the payments are to be financed.</p> <p>11.18.4. If the issuer prepares consolidated annual accounts, the principles laid down in paragraph 11.6 apply to the information set out in this paragraph 11.18.</p>
12.	Material Loans and other Information
12.1.	<p>Details of material loans by the issuer or by any of its subsidiaries stating:</p> <p>12.1.1. the date of the loan;</p> <p>12.1.2. to whom made;</p> <p>12.1.3. the rate of interest;</p> <p>12.1.4. if the interest is in arrears, the last date on which it was paid and the extent of the arrears;</p>

	<p>12.1.5. the period of the loan;</p> <p>12.1.6. the security held;</p> <p>12.1.7. the value of such security and the method of valuation;</p> <p>12.1.8. if the loan is unsecured, the reasons therefor; and</p> <p>12.1.9. if the loan was made to another company, the names and addresses of the directors of such company.</p>
12.2.	Details as described in paragraph 12.1 of loans made or security furnished by the issuer or by any of its subsidiaries for the benefit of any director or manager or any associate of any director or manager.
12.3.	Disclose how the loans receivable arose, stating whether they arose from the sale of assets by the issuer or any of its subsidiaries.
12.4.	<p>A statement that in the opinion of the directors, the issued capital of the issuer is adequate for the purposes of the business of the issuer and of its subsidiaries for the foreseeable future, and if the directors are of the opinion that it is inadequate, the extent of the inadequacy and the manner in which and the sources from which the issuer and its subsidiaries are to be financed. The statement should be supported by a report from the issuer's auditor, reporting accountant, investment banker, sponsoring stockbroker or other adviser acceptable to the Authority.</p> <p>The foreseeable future should normally be construed as the nine months subsequent to the date of the publication of the Information Memorandum.</p>
12.5.	<p>The following information regarding the acquisition, within the last five years, or proposed acquisition by the issuer or any of its subsidiaries, of any securities in or the business undertaking of any other company or business enterprise or any immovable property or other property in the nature of a fixed asset (collectively called "the property") or any option to acquire such property shall be disclosed:</p> <p>12.5.1. the date of any such acquisition or proposed acquisitions;</p> <p>12.5.2. the consideration, detailing that settled by the issue of securities, the payment of cash or by any other means, and detailing how any outstanding consideration is to be settled;</p> <p>12.5.3. details of the valuation of the property;</p> <p>12.5.4. any goodwill paid and how such goodwill was or is to be accounted for;</p> <p>12.5.5. any loans incurred, or to be incurred, to finance the acquisition, or proposed acquisition;</p> <p>12.5.6. the nature of title or interest acquired or to be acquired; and</p> <p>12.5.7. details regarding the vendors as described in paragraph 14.1.</p>
12.6.	<p>The following details regarding any property disposed of during the past five years, or to be disposed of, by the issuer, or any of its subsidiaries –</p> <p>12.6.1. the dates of any such disposal or proposed disposal;</p>

	<p>12.6.2. the consideration received, detailing that settled by the receipt of securities or cash or by any other means and detailing how any outstanding consideration is to be settled;</p> <p>12.6.3. details of the valuation of the property; and</p> <p>12.6.4. the names and addresses of the purchasers of assets sold. If any purchaser was a company, the names and addresses of the beneficial shareholders of the company. If any promoter or director had any interest, directly or indirectly, in such transaction or where any promoter or director was a member of a partnership, syndicate or other association of persons which had such an interest, the names of any such promoter or director, and the nature and extent of his interest.</p>
12.7.	<p>Where the financial statements provided under paragraphs 11.1 to 11.5 are prepared in a currency other than Kenya shillings, disclosure of the exchange rate between the financial reporting currency and Kenya shillings should be provided, using the mean exchange rate designated by the Central Bank of Kenya for this purpose, if any:</p> <p>12.7.1. at the latest practicable date;</p> <p>12.7.2. the high and low exchange rates for each month during the preceding twelve months; and</p> <p>12.7.3. for the five most recent financial years and any subsequent interim period for which financial statements are presented, the average rates for each period, calculated by using the average of the exchange rates on the last day of each month during the period.</p>
13.	The listing
13.1.	A statement of the resolutions, authorisations and approvals by virtue of which the securities are to be listed.
13.2.	The nature and amount of the securities to be listed.
13.3.	<p>13.3.1. A summary of the rights attaching to the securities, and in particular the extent of the voting rights, entitlement to share in the profits and, in the event of liquidation, in any surplus and any other special rights. Where there is or is to be more than one class of shares of the issuer in issue, like details must be given for each class.</p> <p>13.3.2. If the rights evidenced by the securities being listed are or may be materially limited or qualified by the rights evidenced by any other class of securities or by the provisions of any contract or other documents, include information regarding such limitation or qualification and its effect on the rights evidenced by the securities to be listed.</p> <p>13.3.3. The time limit (if any) after which entitlement to dividend lapses and an indication of the person in whose favour the lapse operates.</p>

13.4.	A statement regarding tax on the income from the shares withheld at source – 13.4.1. in the country of origin; and 13.4.2. in Kenya.
13.5.	The fixed date (if any) on which entitlement to dividends arises.
13.6.	Details of any other securities exchanges (if any) where admission to listing is being or will be sought.
13.7.	The names and addresses of the issuer's registrar and paying agent for the shares in any other country where admission to listing has taken place.
13.8.	The following information must be given concerning the terms and conditions of the listing at a securities exchange where such listing is being effected at the same time as the subject listing or has been effected within the three months preceding application of the subject listing- 13.8.1. if the listing has been or is being made simultaneously on the markets of two or more countries: (i) the listing price, stating the nominal value or, in its absence, the accounting par value; and (ii) the share premium. 13.8.2. the period during which the Information Memorandum will be available prior to the admission to listing and the names of the agents where the Information Memorandum may be accessed; 13.8.3. a statement or estimate of the overall amount of the charges relating to the listing payable by the issuer, stating the total remuneration of the financial intermediaries.
13.9.	A description of the securities for which application is made and, in particular, the number of securities and nominal value per security or, in the absence of nominal value, the accounting par value or the total nominal value, the exact designation or class, and coupons attached.
13.10.	The securities exchange at which the securities will be listed and the dates on which the securities will be admitted to listing and on which dealings will commence.
13.11.	The names of the securities exchanges (if any) on which securities of the same class are already listed.
13.12.	If during the period covered by the last financial year and the current financial year, there has occurred any public takeover offer by a third party in respect of the issuer's shares, or any public takeover offer by the issuer in respect of another company's shares, a statement to that effect and a statement of the price or exchange terms attaching to any such offers and the outcome thereof.
13.13.	A statement whether the issuer assumes responsibility for the withholding of tax at source.

13.14.	Where there is a substantial disparity between the listing price and the effective cash cost to directors or senior management, or affiliated persons, of securities acquired by them in transactions during the past five years, or which they have the right to acquire, include a comparison between that offer price and the listing price.
13.15.	Disclose the amount and percentage of immediate dilution resulting from the listing, computed as the difference between the listing price per share and the net book value per share for the equivalent class of security, as of the latest balance sheet date.
13.16.	<p>The following information on expenses shall be provided:</p> <p>13.16.1. the total amount of the discounts or commissions agreed upon by the financial intermediaries and the issuer shall be disclosed, as well as the percentage such commissions represent of the total amount of the listing costs per share;</p> <p>13.16.2. an itemised statement of the major categories of expenses incurred in connection with the listing and by whom the expenses are payable, if other than the issuer. The following expenses shall be disclosed separately:</p> <p>(a) advertisement;</p> <p>(b) printing of Information Memorandum;</p> <p>(c) approval and listing fees;</p> <p>(d) financial advisory fees; and</p> <p>(e) legal fees;</p> <p>The information may be given subject to future contingencies. If the amounts of any items are not known, estimates (identified as such) shall be given; and</p> <p>13.16.3. a statement or estimate of the overall amount, percentage and amount per share of the charges relating to the listing are payable by the issuer, stating the total remuneration of the intermediaries.</p>
13.17.	Provide to the Authority signed copies of all agreements between the issuer and transaction team before the offer opening date.
14.	Vendors
14.1.	<p>14.1.1. The names and addresses of the vendors of any assets purchased or acquired by the issuer or any subsidiary company during the five years preceding the publication of the Information Memorandum or proposed to be purchased, or acquired, on capital account and the amount paid or payable in cash or securities to the vendor, and where there is more than one separate vendor, the amount so paid or payable to each vendor, and the amount (if any) payable for goodwill or items of a similar nature.</p> <p>14.1.2. The cost of assets to the vendors and dates of purchase by them if within the preceding five financial years.</p>

	<p>14.1.3. Where the vendor is a company, the names and addresses of the beneficial shareholders, direct and indirect, of the company, if required by the Authority.</p> <p>14.1.4. Where this information is unobtainable, the reasons therefor are to be stated.</p>
14.2.	State whether or not the vendors have given any indemnities, guarantees or warranties.
14.3.	State whether the vendors' agreements preclude the vendors from carrying on business in competition with the issuer or any of its subsidiaries, or impose any other restriction on the vendor, and disclose details of any cash or other payment regarding restraint of trade and the nature of such restraint of trade.
14.4.	State how any liability for accrued taxation, or any apportionment, thereof to the date of acquisition, will be settled in terms of the vendors' agreements.
14.5.	Where securities are purchased in a subsidiary company, reconciliation between the amounts paid for the securities and the value of the net assets of that company. Where securities are purchased in companies other than subsidiary companies, a statement as to how the value of the securities was arrived at.
14.6.	Where any promoter or director had any beneficial interest, direct or indirect, in such transaction or where any promoter or director was a member of a partnership, syndicate or other association of persons which had such an interest, the names of any such promoter or director, and the nature and extent of his interest. Where the vendors or any of them are a partnership, the members of the partnership shall not be treated as separate vendors.
14.7.	The amount of any cash or securities paid or benefit given within five preceding years or proposed to be paid or given to any promoter not being a director, and the consideration for such payment or benefit.
14.8.	State whether the assets acquired have been transferred into the name of the issuer or any of its subsidiary companies and whether or not the assets have been ceded or pledged.

EIGHTH SCHEDULE

{r. 23(1)(c)}

SME MARKET SEGMENT DISCLOSURE REQUIREMENTS FOR PUBLIC OFFERS
AND LISTING

1.	Identity of directors, senior management, and advisors (i.e., persons responsible for the information disclosed)
1.1.	The name, home or business address and function of each of the persons giving the declaration set out in paragraph 1.2.
1.2.	<p>A declaration in the following form:</p> <p>The directors of the issuer, whose names appear on page [], of the information memorandum accept responsibility for the information contained in this document. To the best of the knowledge and belief of the directors (who have taken all reasonable care to ensure that such is the case) the information contained in this document is accurate and does not omit anything likely to affect the import of such information.</p> <p>Where applicable, a declaration by those responsible for certain parts of the Information memorandum that, to the best of their knowledge, the information contained in those parts of the information memorandum for which they are responsible is in accordance with the facts and that those parts of the information memorandum make no omission likely to affect their import.</p>
1.3.	The names, addresses and material interest (including any negative statement) in the issuer, of the issuer's bankers, legal advisers, sponsors, reporting accountants and any other expert to whom a statement or report included in the information memorandum has been attributed.
2.	Offer statistics and expected timetable
2.1.	A statement that the Authority (or where applicable, the Securities Exchange if the function has been delegated) has approved the public offering and listing of the shares on the SME Market Segment of the Securities Exchange and that such approval should not be considered as an endorsement of the issuer that is the subject of the information memorandum.
2.2.	State the total amount of the issue, including the issue price and the basis of the price and the number of securities offered.
2.3.	<p>For each public offering, and separately for each group of targeted potential investors, state the following information to the extent applicable:</p> <p>2.3.1 the period during which the offer will be open, and where and to whom purchase or subscription applications shall be addressed. Describe whether the purchase period may be extended or shortened, and the manner and duration of possible extensions or possible early closure or shortening of the period. Describe the manner in which the latter shall be made public. If the exact dates are not known when the documents are first filed or distributed to the public, describe arrangement for announcing final or definitive date or period;</p>

	<p>2.3.2 method and time limits for paying up for the securities;</p> <p>2.3.3 method and time limits for delivery of securities (including provisional allocations, if applicable) to subscribers or purchasers;</p> <p>2.3.4 in case of pre-emptive purchase rights, the procedure for the exercise of any right of pre-emption, the negotiability of subscription rights and the treatment of subscription rights not exercised; and</p> <p>2.3.5 a full description of the manner in which results of the distribution of securities are to be made public, and when appropriate, the manner for refunding excess amounts paid by applicants (including whether interest is to be paid).</p>
2.4.	The total amount of the securities to be listed.
3.	Information on the issuer and Documents Available for Inspection
3.1.	The name (both legal and trading name, if any), registered office and, if different, head office of the issuer, and the website and any other digital platforms of the issuer (with a disclaimer that the information on the website or such digital platform does not form part of the information memorandum unless that information is incorporated by reference into the information memorandum).
3.2.	The country of incorporation of the issuer.
3.3.	The date of incorporation and the length of life of the issuer, except where indefinite.
3.4.	The legislation under which the issuer operates and the legal form which it has adopted under that legislation.
3.5.	A description of the issuer's principal objects and activities, stating the main category of products sold or services performed, and the degree of any government protection and of any investment encouragement law affecting the business.
3.6.	The place and date of registration of the issuer and its registration number.
3.7.	<p>A statement that for the duration of any offer to which the information memorandum relates, including any extension if applicable, at such named place as the Authority (or the Securities Exchange, where applicable) may agree (including an indication of the website (or other approved digital platform) on which the documents may be inspected), the following documents (or copies thereof), where applicable, could be inspected:</p> <p>3.7.1. the memorandum and articles of association (or the constitutive documents) of the issuer;</p> <p>3.7.2. the latest certified appraisals or valuations relative to movable and immovable property and items of a similar nature, if applicable;</p> <p>3.7.3. all reports, letters, and other documents, valuations and statements by any expert any part of which is included or referred to in the information memorandum;</p>

	<p>3.7.4. the audited accounts of the issuer or, in the case of a group, the consolidated audited accounts of the issuer and its subsidiary undertakings for at least one year preceding the publication of the information memorandum, including, in the case of a company incorporated in Kenya, all notes, reports or information required under the Companies Act 2015;</p> <p>3.7.5. the latest competent person's report, in the case of a mineral company (mineral oil and natural gas companies);</p> <p>3.7.6. All other documents that would be relevant and material for consideration by an investor.</p>
3.7.	Where any of the documents listed in paragraph 3.7. are not in the English language, translations into English must also be available for inspection. In the case of any document mentioned in paragraph 5 (material contracts), a translation of a summary of such document may be made available for inspection, if the Authority (or the Securities Exchange, where applicable) so requires.
4.	Share Capital
4.1.	The amount of the issuer's nominal and issued capital and the amount of any capital agreed to be issued, the number and classes of the shares of which it is composed with details of their principal characteristics. If any part of the issued capital is still to be paid up, a statement of the number, total nominal value and the type of the shares not yet fully paid up, broken down according to the extent to which they have been paid up. If more than 10% of capital has been paid for with assets other than cash within the period covered by the historical financial information, state that fact.
4.2.	Where the issuer has unissued capital or is committed to increase the capital, an indication of: <p>4.2.1. the amount of such nominal capital or capital increase;</p> <p>4.2.2. the categories of persons having preferential subscription rights for such additional portions of capital; and</p> <p>4.2.3. the terms and arrangements for the share issue corresponding to such portions.</p>
4.3.	The amount of any convertible securities, exchangeable securities or securities with warrants, with an indication of the conditions governing and the procedures for conversion, exchange or subscription.
4.4.	A summary of the provisions of the issuer's articles of association (or constitutive documents) regarding changes in capital and the respective rights of the various classes of securities.
4.5.	If an issuer has been in operation, a summary of the changes during the preceding one financial year in the amount of the issued capital of the issuer and, if material, the capital of any member of the group or the number and classes of securities of which it is composed.
4.6.	The names of the persons who, directly or indirectly, jointly or severally, exercise or could exercise control over the issuer, and particulars of the proportion of the voting capital held by such persons.

	For these purposes, joint control means control exercised by two or more persons who have concluded an agreement which may lead to their adopting a common policy in respect of the issuer.
4.7.	Details of any change in controlling shareholder as a result of the issue and a statement of the new trading objectives of the issuer, if different from its current objectives.
4.8.	If the issuer has subsidiary undertakings or parent undertakings, a brief description of the group of undertakings and of the issuer's position within it stating, where the issuer is a subsidiary undertaking, the name and number of shares in the issuer held (directly or indirectly) by each parent undertaking of the issuer.
5.	Material Contracts
5.1.	<p>A summary of the principal contents of:</p> <p>5.1.1. each material contract (not being a contract entered into in the ordinary course of business) entered into by any member of the group within the year immediately preceding the publication of the information memorandum, including particulars of dates, parties, terms and conditions, any consideration passing to or from the issuer or any other member of the group; and</p> <p>5.1.2. any contractual arrangement with a controlling shareholder required to ensure that the company is capable at all times of carrying on its business independent of any controlling shareholder, including particulars of dates, terms and conditions and any consideration passing to or from the issuer or any other member of the group.</p>
5.2.	<p>5.2.1. Details of the name of any promoter of any member of the issuer or group and the amount of any cash, securities or benefits paid, issued or given within the year immediately preceding the date of publication of the information memorandum, or proposed to be paid, issued or given to any such promoter in his capacity as a promoter and the consideration for such payment, issue or benefit.</p> <p>5.2.2. Where the interest of such promoter consists in being a member of a partnership, company, syndicate or other association of persons, the nature and extent of the interest of such partnership, company, syndicate or other association, and the nature and extent of such promoter's interest in the partnership, company, syndicate or other association.</p>
5.3.	A statement of all sums paid or agreed to be paid within the year immediately preceding the date of publication of the information memorandum, to any director or to any company in which he is beneficially interested, directly or indirectly, or of which he is director, or to any partnership, syndicate or other association of which he is a member, in cash or securities or otherwise, by any person either to induce him to become or to qualify him as a director, or otherwise for services rendered by him or by the company, partnership, syndicate or other association in connection with the promotion or formation of the issuer.

5.4.	Where securities are issued in connection with any merger, division of a company, takeover offer, acquisition of an undertaking's assets and liabilities or transfer of assets: <ul style="list-style-type: none"> 5.4.1. a statement of the aggregate value of the consideration for the transaction and how it was or is to be satisfied; 5.4.2. If the total emoluments receivable by the directors of the issuer will be varied in consequence of the transaction, full particulars of the variation; if there will be no variation, a statement to that effect; and 5.4.3. if the business of the issuer or any of its subsidiaries or any part thereof is managed by a third party under a contract or arrangement, the name and address (or the address of its registered office, if a company) of such third party and a description of the business so managed or to be managed and the consideration paid in terms of the contract or arrangement and any other pertinent details relevant to such contract or arrangement.
6.	Business Overview
6.1.	A description of the issuer's principal activities, stating the main category of products sold or services performed. Where the issuer or its subsidiaries carries on or proposes to carry on two or more businesses which are material having regard to the profits or losses, assets employed or to be employed, or any other factor, information as to the relative importance of each such business.
6.2.	Information on any significant new products or activities that have been introduced and, to the extent the development of new products or services has been publicly disclosed, give the status of their development.
6.3.	Information on any legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the issuer is aware) which may have or have had in the recent past (covering at least the previous four months) a significant effect on the issuer's financial position or an appropriate negative statement.
6.4.	Information on any interruptions in the issuer's business which may have or have had during the recent past (covering at least the previous four months) a significant effect on the issuer's financial position.
6.5.	A description, with figures, of the main investments made, including interests such as shares, debt securities etc., in other undertakings during the current financial year.
6.6.	Information concerning the principal investments (including new plant, factories and research and development) during the current financial year being made, with the exception of interests being acquired in other undertakings, including: <ul style="list-style-type: none"> 6.6.1. the geographical distribution of these investments; and 6.6.2. the method of financing such investments.

6.7.	Information concerning the issuer's principal future investments (including new plant, factories, and research and development, if any), with the exception of interests to be acquired in other undertakings, on which the issuers directors have already made firm commitments.
6.8.	The basis for any statements made by the company regarding its competitive position shall be disclosed.
7.	Operating and financial review and information memorandum (the recent development and prospects of the issuer) .
7.1.	<p>Unless otherwise approved by the Authority (or where applicable, a Securities Exchange) in exceptional circumstances and to the extent necessary for an understanding of the issuer's business as a whole, if the issuer had declared annual accounts in the past:</p> <p>7.1.1. general information on the trend of the issuer's business since the end of the financial year to which the last published annual accounts relate, if the issuer has published annual accounts in the past, and in particular:</p> <p>(a) the most significant recent trends in production, sales and stocks and the state of the order book; and</p> <p>(b) recent trends in costs and selling prices; and</p> <p>7.1.2. information on the issuer's prospects for at least the current financial year. Such information must relate to the financial and trading prospects of the issuer together with any material information which may be relevant thereto, including all special trade factors or risks (if any) which are not mentioned elsewhere in the information memorandum and which are unlikely to be known or anticipated by the general public, and which could materially affect the profits.</p>
7.2.	Provide information on the risk factors that are specific to the issuer or its industry and make an offering speculative or on high risk in a section headed "Risk Factors".
7.3.	<p>Describe the:</p> <p>7.3.1. extent to which the financial statements disclose material changes in net revenues, provide a narrative discussion of the extent to which such changes are attributable to changes in prices or to changes in the volume or amount of products or services being sold or to the introduction of new products or services;</p> <p>7.3.2. impact of inflation if material - if the currency in which financial statements are presented is of a country that has experienced hyperinflation, the existence of such inflation, a history of the annual rate of inflation covering the period, and discussion of the impact of the hyperinflation on the issuer's business shall be disclosed;</p> <p>7.3.3. impact of foreign currency fluctuations on the issuer, if material, and the extent to which foreign currency net</p>

	<p>investments are hedged by the currency borrowing and other hedging instruments; and</p> <p>7.3.4. impact of any material governmental factors that have materially affected or could materially affect, directly or indirectly the issuer's operations or investments by the host country shareholders</p>
7.4.	Where a profit forecast or estimate appears, the principal assumptions upon which the issuer has based its forecast or estimate must be stated. Where so required, the forecast or estimate must be examined and reported on by the reporting accountants or auditors and their report must be set out. There must also be set out a report from the sponsor confirming that the forecast has been made after due and careful enquiry by the directors
7.5.	The opinion of the directors, stating the grounds for the same, as to the prospects of the business of the issuer and of its subsidiaries and of any subsidiary or business undertaking to be acquired, together with any material information which may be relevant thereto.
8.	Directors and Employees
8.1.	<p>The full name, date of birth, home or business address, nationality and function in the issuer of each of the following persons and an indication of the principal activities performed by them outside the issuer where these have an impact to the issuer:</p> <p>8.1.1. directors and alternate directors of the issuer and each of its subsidiaries, including details of other directorships;</p> <p>8.1.2. the senior management of the issuer including the chief executive, board secretary, Public Offers Compliance Officer and chief finance officer, with details of professional qualifications and period of employment with the issuer for each such person;</p> <p>8.1.3. founders, if the issuer has been established as a family business or has been in existence for fewer than five years and the nature of family relationship, if any; and</p> <p>8.1.4. detailed disclosure of chief executive or other senior management changes planned or expected during twelve months following the issue and listing of the security or appropriate negative statement.</p>
8.2.	In the case of a foreign issuer, information similar to that described in 8.1 above, relative to the local management if any. Where the Authority (or where applicable, the Securities Exchange) considers the parent company is not adequately represented on the directorate of its subsidiaries, an explanation is required.
8.3.	The total aggregate of the remuneration paid and benefits in kind granted to the directors of the issuer by any member of the group during the last completed financial year under any description whatsoever
8.4.	A statement showing the aggregate of the direct and indirect interests of the directors in, and the direct and indirect interests of each director holding in

	excess of five per cent of the share capital of the issuer, distinguishing between beneficial and non-beneficial interests, or an appropriate negative statement. The statement should include by way of a note any change in those interests occurring between the end of the financial year and the date of publication of the information memorandum, or if there has been no such change, disclosure of that fact.
8.5.	<p>All relevant particulars regarding the nature and extent of any interests of directors of the issuer in transactions which are or were unusual in their nature or conditions or significant to the business of the issuer, and which were effected by the issuer during:</p> <p>8.5.1. the current or immediately preceding financial year; or</p> <p>8.5.2. an earlier financial year and remain in any respect outstanding or unperformed; or</p> <p>8.5.3. an appropriate negative statement.</p>
8.6.	The total of any outstanding loans granted by any member of the group to the directors of the issuer and also of any guarantees provided by any member of the group for the director's benefit.
8.7.	Particulars of any arrangement under which a director of the issuer has waived or agreed to waive future emoluments together with particulars of waivers of such emoluments in force at the date of the information memorandum.
8.8.	<p>Details of directors' service contracts such details to include the matters specified in paragraphs 8.8.1 to 8.8.7 or an appropriate negative statement:</p> <p>8.8.1. the name of the employing company;</p> <p>8.8.2. the date of the contract, the un-expired term and details of any notice periods;</p> <p>8.8.3. full particulars of the director's remuneration including salary and other benefits;</p> <p>8.8.4. any commission or profit-sharing arrangements;</p> <p>8.8.5. any provision for compensation payable upon early termination of the contract;</p> <p>8.8.6. details of any other arrangements which are necessary to enable investors to estimate the possible liability of the company upon early termination of the contract; and</p> <p>8.8.7. details relating to restrictions prohibiting the director, or any person acting on his behalf or connected to him, from any dealing in securities of the company during a close period or at a time when the director is in possession of unpublished price sensitive information in relation to those securities.</p>
8.9.	<p>A summary of the provisions of the constitutive documents of the issuer regarding:</p> <p>8.9.1. any power enabling a director to vote on a proposal, arrangement, or contract in which he is materially interested; and</p>

	8.9.2. any power enabling the directors, in the absence of an independent quorum, to vote remuneration (including pension or other benefits) to themselves or any members of their body.
8.10.	Any arrangement or understanding with major security holders, customers, suppliers or others, pursuant to which any person referred to in 8.1, was selected as a director or member of senior management.
8.11.	Details relating to the issuer's audit committee, remuneration committee and nomination committee including the names of committee members and a summary of the terms of reference under which the committees operate.
9.	Organizational Structure
9.1.	<p>9.1.1. If the issuer is part of a group, a brief description of the group and the issuer's position within the group. This may be in the form of, or accompanied by, a diagram of the organizational structure if this helps to clarify the structure.</p> <p>9.1.2. A list of the issuer's significant subsidiaries, including name, country of incorporation or residence, the proportion of ownership interest held and, if different, the proportion of voting power held.</p>
10.	Major shareholders and related party transactions
10.1.	<p>The following information shall be provided regarding the issuer's major security holders, that is, security holders that are the beneficial owners of at least three per cent or more of each class of the issuer's voting securities:</p> <p>10.1.1. provide the names of the major security holders, and the number of securities and the percentage of outstanding securities of each class owned by each of them as of the most recent practicable date, or an appropriate negative statement if there are no major security holders;</p> <p>10.1.2. disclose any significant change in the percentage ownership held by any major security holders during the past year; and</p> <p>10.1.3. indicate whether the issuer's major security holders have different voting rights, or an appropriate negative statement.</p>
10.2.	Information on the number of all security holders of the issuer and their nationality.
10.3.	State whether the issuer is directly or indirectly owned or controlled (or significantly influenced) by any other corporation, foreign government or any other natural or legal person severally or jointly, and, if so, give the name of such controlling corporation, government or other person, and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote or a right to appoint or remove directors.
10.4.	Describe any arrangements, known to the issuer, the operation of which may at a subsequent date result in a change in control of the issuer.
10.5.	Provide the information required below for the period since the beginning of the issuer's preceding financial year up to the date of the Information Memorandum, with respect to transactions or loans between the issuer and:

	<p>10.5.1. enterprises that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the issuer;</p> <p>10.5.2. associates;</p> <p>10.5.3. Enterprises owned by directors or major security holders of the issuer (or over which such persons are able to exercise significant influence) and enterprises that have a number of key management in common with the issuer. Shareholders beneficially owning a 3% interest in the voting power of the issuer are presumed to have a significant influence on the issuer including:</p> <p>10.5.3.1. the nature and extent of any transactions or presently proposed transactions which are material to the issuer or the related party, or any transactions that are unusual in their nature or conditions, involving goods, services, or tangible or intangible assets, to which the issuer or any of its parent or subsidiary was a party; and</p> <p>10.5.3.2. the amount of outstanding loans (including guarantees of any kind) made by the issuer or any of its parent or subsidiaries to or for the benefit of any of the persons listed above.</p> <p>The information given should include the largest amount outstanding during the period covered, the amount outstanding as of the latest practicable date, the nature of the loan, the transaction in which it was incurred, and the interest rate on the loan.</p>
10.6.	Full information of any material inter-company finance.
10.7.	Where a statement or report attributed to a person as an expert is included in the information memorandum, a statement that it is included, in the form and context in which it is included, with the written form and context in which it is included, with the written consent of that person, who has authorized the contents of that part of the information memorandum, and has not withdrawn his consent.
10.8.	If any of the named experts employed on a contingent basis, owns an amount of securities in the issuer or its subsidiaries which is material to that person, or has a material, direct or indirect economic interest in the issuer or that depends on the success of the listing, provide a brief description of the nature and terms of such contingency or interest.
10.9.	Provide a copy of the share or security register to the Authority (or where applicable, the securities exchange).
11.	Financial information
11.1.	Financial information as required by paragraphs 11.9 and 11.10 set out in the form of an accountants' report.
11.2.	If applicable, an accountants' report, as set out in paragraphs 11.9 and 11.10 on the asset which is the subject of the transaction.

11.3.	The annual accounts prepared by the issuer including consolidated accounts, if any. However, the issuer may exclude its own accounts on condition that they do not provide any significant additional information to that contained in the consolidated accounts with the approval of the Authority (or where applicable, the Securities Exchange) and such accounts shall be available for inspection in accordance with paragraph 3.7.
11.4.	If, in the course of the preceding financial year, the number of shares in the issuer has changed as a result, for example, of an increase in or reduction or re-organisation of capital, the profit or loss per share must be adjusted to make them comparable; in that event the basis of adjustment used must be disclosed.
11.5.	<p>11.5.1. Particulars of the dividend policy to be adopted:</p> <p>11.5.1.1. the dividend policy to be adopted;</p> <p>11.5.1.2. the pro-forma balance sheet prior to and immediately after the proposed issue of securities;</p> <p>11.5.1.3. the effect of the proposed issue of securities on the net asset value per share.</p> <p>11.5.2. The particulars set out in paragraph 11.5.1 must be prepared and presented in accordance with International Financial Reporting Standards (IFRS). If the issuer is a holding company, the information must be prepared in a consolidated form.</p>
11.6.	The amount of the total dividends, the dividend per share and the dividend cover for each of the last financial year, adjusted, if necessary, to make it comparable in accordance with paragraph 11.4.
11.7.	A description of any significant change in the financial or trading position of the issuer which has occurred since the end of the last financial period for which either audited financial statements or interim financial statements have been published, or an appropriate negative statement.
11.8.	If the issuer's own annual or consolidated annual accounts do not give a true and fair view of the assets and liabilities, financial position and profits and losses of the issuer or group, more detailed or additional information must be given. In the case of issuers incorporated in a country where issuers are not obliged to draw up their accounts so as to give a true and fair view, but are required to draw them up to an equivalent standard, the latter may be sufficient.
11.9.	A table showing the changes in financial position of the group over of the previous. .
11.10.	<p>11.10.1. Information in respect of the matters listed below relating to each undertaking in which the issuer holds (directly or indirectly) on a long-term basis an interest in the capital that is likely to have a significant effect on the assessment of the issuer's own assets and liabilities, financial position or profits and losses:</p> <p>11.10.1.1. the name and address of the registered office;</p>

	<p>11.10.1.2. the field of activity;</p> <p>11.10.1.3. the proportion of capital held;</p> <p>11.10.1.4. the issued capital;</p> <p>11.10.1.5. the reserves;</p> <p>11.10.1.6. the profit or loss arising out of ordinary activities, after tax, for the last financial year;</p> <p>11.10.1.7. the value at which the issuer shows in its accounts the interest held;</p> <p>11.10.1.8. any amount still to be paid up on securities held;</p> <p>11.10.1.9. the amount of dividends received in the course of the last financial year in respect of shares held; and</p> <p>11.10.1.10. the amount of the debts owed to and by the issuer with regard to the undertaking.</p> <p>11.10.2. The items of information listed in 11.10.1 must be given in any event for every undertaking in which the issuer has a direct or indirect participating interest, if the book value of that participating interest represents at least twenty per cent of the capital and reserves of the issuer or if that interest accounts for at least twenty per cent of the net profit or loss of the issuer or, in the case of a group, if the book value of that participating interest represents at least twenty per cent of the consolidated net assets or at least twenty per cent of the consolidated net profit or loss of the group.</p> <p>11.10.3. The information required by 11.10.1.5 and 11.10.1.6 may be omitted where the undertaking in which a participating interest is held does not publish annual accounts.</p> <p>11.10.4. The information required by 11.10.1.4 to 11.10.1.10 may be omitted if the annual accounts of the undertakings in which the participating interests are held are consolidated into the issuer annual accounts or, with the exception of 11.10.1.9 and 11.10.1.10, if the value attributable to the interest under the equity method is disclosed in the annual accounts, provided that in the opinion of the Authority (or the Securities Exchange, where applicable), the omission of the information is not likely to mislead the public with regard to the facts and circumstances, knowledge of which is essential for the assessment of the securities in question.</p>
11.11.	<p>The name, registered office and proportion of capital held in respect of each undertaking not failing to be disclosed under paragraph 11.10.1 or 11.10.2 in which the issuer holds at least twenty per centum of the capital. These details may be omitted when they are of negligible importance for the purpose of enabling investors and their investment advisers to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the issuer or group and of the rights attaching to the securities to be listed.</p>

11.12.	<p>When the information memorandum includes consolidated annual accounts, disclosure:</p> <p>11.12.1. of the consolidation principles applied (which must be described explicitly where such principles are not consistent with International Financial Reporting Standards (IFRS));</p> <p>11.12.2. of the names and registered offices of the undertakings included in the consolidation, where that information is important for the purpose of assessing the assets and liabilities, financial position and profits and losses of the issuer; it is sufficient to distinguish them by a symbol in the list of undertakings of which details are required in paragraph 11.10; and</p> <p>11.12.3. for each of the undertakings referred to in 11.12.2:</p> <p>11.12.3.1. the total proportion of third-party interests, if annual accounts are wholly consolidated; or</p> <p>11.12.3.2. the proportion of the consolidation calculated on the basis of interests, if consolidation has been effected on a pro rata basis.</p>
11.13.	Particulars of any arrangement under which future dividends may be waived or agreed to be waived.
11.14.	<p>11.14.1. Details on a consolidated basis as at the most recent practicable date (which must be stated and which in the absence of exceptional circumstances must not be more than fourteen days prior to the date of publication of the information memorandum of the following, if material:</p> <p>11.14.1.1. the borrowing powers of the issuer and its subsidiaries exercisable by the directors and the manner in which such borrowing powers may be varied;</p> <p>11.14.1.2. the circumstances, if applicable, under which the borrowing powers have been exceeded during the past three years. Any exchange control or other restrictions on the borrowing powers of the issuer or any of its subsidiaries;</p> <p>11.14.1.3. the total amount of any loan capital outstanding in all members of the group, and loan capital created but unissued, and term loans, distinguishing between loans guaranteed, unguaranteed, secured (whether the security is provided by the issuer or by third parties), and unsecured;</p> <p>11.14.1.4. all off-balance sheet financing by the issuer and any of its subsidiaries;</p> <p>11.14.1.5. the total amount of all other borrowings and indebtedness in the nature of borrowing of the</p>

	<p>group, distinguishing between guaranteed, unguaranteed, secured and unsecured borrowings and debts, including bank overdrafts, liabilities under acceptances (other than normal trade bills) or acceptance credits, hire purchase commitments and obligations under finance leases;</p> <p>11.14.1.6. the total amount of any material commitments, lease payments and contingent liabilities or guarantees of the group; or</p> <p>11.14.1.7. how the borrowings required to be disclosed under paragraphs 11.14.1.3 to 11.14.1.6 arose, stating whether they arose from the purchase of assets by the issuer or any of its subsidiaries.</p> <p>11.14.2. An appropriate negative statement must be given in each case where relevant, in the absence of any loan capital, borrowings, indebtedness and contingent liabilities described in 11.14.1.</p> <p>11.14.3. As a general rule, no account shall be taken of liabilities or guarantees between undertakings within same group, a statement to that effect being made if necessary;</p> <p>11.14.4. For each item identified in 11.14.1 above, where applicable:</p> <p>11.14.4.1. the names of the lenders if not debenture holders;</p> <p>11.14.4.2. the amount, terms and conditions of repayment or renewal;</p> <p>11.14.4.3. the rates of interest payable on each item;</p> <p>11.14.4.4. details of the security, if any;</p> <p>11.14.4.5. details of conversion rights; and</p> <p>11.14.4.6. where the issuer or any of its subsidiaries has debts which are repayable within twelve months, state how the payments are to be financed.</p> <p>11.14.5. The principles set out in paragraph 11.5 shall apply where the issuer prepares consolidated annual accounts under this paragraph.</p>
11.15.	<p>Details of material loans by the issuer or by any of its subsidiaries stating:</p> <p>11.15.1. the date of the loan;</p> <p>11.15.2. to whom made;</p> <p>11.15.3. the rate of interest;</p> <p>11.15.4. if the interest is in arrears, the last date on which it was paid and the extent of the arrears;</p>

	<p>11.15.5. the period of the loan;</p> <p>11.15.6. the security held;</p> <p>11.15.7. the value of such security and the method of valuation;</p> <p>11.15.8. if the loan is unsecured, the reasons therefor; and</p> <p>11.15.9. if the loan was made to another company, the names and addresses of the directors of such company.</p>
11.16.	Details as described in paragraph 11.15 of loans made or security furnished by the issuer or by any of its subsidiaries for the benefit of any director or manager or any associate of any director or manager.
11.17.	Disclose how the loans receivable arose, stating whether they arose from the sale of assets by the issuer or any of its subsidiaries.
11.18.	<p>11.18.1. A statement that in the opinion of the directors, the issued capital of the issuer is adequate for the purposes of the business of the issuer and of its subsidiaries for the foreseeable future, and if the directors are of the opinion that it is inadequate; the extent of the inadequacy and the manner in which and the sources from which the issuer and its subsidiaries are to be financed.</p> <p>11.18.2. The statement should be supported by a report from the issuer's auditor, reporting accountant, investment banker, sponsoring stockbroker or other adviser acceptable to the Authority.</p> <p>11.18.3. The foreseeable future should normally be construed as the nine months subsequent to the date of the publication of the information memorandum.</p>
11.19.	<p>The issuer shall make the following information regarding the acquisition, within the last year, or proposed acquisition by the issuer or any of its subsidiaries, of any securities in or the business undertaking of any other company or business enterprise or any immovable property or other property in the nature of a fixed asset (collectively called "the property") or any option to acquire such property shall be disclosed:</p> <p>11.19.1. the date of any such acquisition or proposed acquisitions;</p> <p>11.19.2. the consideration, detailing that settled by the issue of securities, the payment of cash or by any other means, and detailing how any outstanding consideration is to be settled;</p> <p>11.19.3. details of the valuation of the property;</p> <p>11.19.4. any goodwill paid and how such goodwill was or is to be accounted for;</p> <p>11.19.5. any loans incurred, or to be incurred, to finance the acquisition, or proposed acquisition;</p> <p>11.19.6. the nature of title or interest acquired or to be acquired; and</p> <p>11.19.7. details regarding the vendors as described in paragraph 13.</p>

11.20.	<p>The following details regarding any property disposed of during the past year, or to be disposed of, by the issuer, or any of its subsidiaries:</p> <p>11.20.1. the dates of any such disposal or proposed disposal;</p> <p>11.20.2. the consideration received, detailing that settled by the receipt of securities or cash or by any other means and detailing how any outstanding consideration is to be settled;</p> <p>11.20.3. details of the valuation of the property; and</p> <p>11.20.4. the names and addresses of the purchasers of assets sold. If any purchaser was a company, the names and addresses of the beneficial shareholders of the company. If any promoter or director had any interest, directly or indirectly, in such transaction or where any promoter or director was a member of a partnership, syndicate or other association of persons which had such an interest, the names of any such promoter or director, and the nature and extent of his interest.</p>
11.21.	<p>Where the financial statements provided under paragraphs 11.1 to 11.5 are prepared in a currency other than Kenya shillings, disclosure of the exchange rate between the financial reporting currency and Kenya shillings should be provided, using the mean exchange rate designated by the Central Bank of Kenya for this purpose, if any:</p> <p>11.21.1. at the latest practicable date;</p> <p>11.21.2. the high and low exchange rates for each month during the preceding twelve months; and</p> <p>11.21.3. for the most recent financial year and any subsequent interim period for which financial statements are presented, the average rates for each period, calculated by using the average of the exchange rates on the last day of each month during the period.</p>
12.	The offer and listing
12.1.	In case of a public offer, an indication whether or not all the shares have been marketed or are available in whole or in part to the public in conjunction with the application.
12.2.	A statement of the resolutions, authorizations and approvals by virtue of which the securities have been or will be created, issued and listed.
12.3.	The nature and amount of the issue or the securities to be listed.
12.4.	The number of shares which have been or will be created or issued, if predetermined.
12.5.	<p>12.5.1. A summary of the rights attaching to the securities for which an application is made, and in particular the extent of the voting rights, entitlement to share in the profits and, in the event of liquidation, in any surplus and any other special rights. Where there is or is to be more than one class of shares of the issuer in issue, like details must be given for each class.</p>

	<p>12.5.2. If the rights evidenced by the securities being offered or listed are or may be materially limited or qualified by the rights evidenced by any other class of securities or by the provisions of any contract or other documents, include information regarding such limitation or qualification and its effect on the rights evidenced by the securities to be listed or offered.</p> <p>12.5.3. The time limit (if any) after which entitlement to dividend lapses and an indication of the person in whose favour the lapse operates</p>
12.6.	<p>A statement regarding tax on the income from the shares withheld at source:</p> <p>12.6.1. in the country of origin; and</p> <p>12.6.2. in Kenya.</p>
12.7.	The fixed date (if any) on which entitlement to dividends arises.
12.8.	Details of any other Securities Exchanges (if any) where admission to listing is being or will be sought within one year after the listing of the securities.
12.9.	The names and addresses of the issuer's registrar and paying agent for the shares in any other country where admission to listing has taken place.
12.10.	<p>The following information must be given concerning the terms and conditions of the issue of the securities with respect to the listing at a Securities Exchange where such issue or placing is being effected at the same time as the subject listing or has been effected within the three months preceding application of the subject listing:</p> <p>12.10.1. a statement of any right of pre-emption of shareholders exercisable in respect of the shares or of the disapplication of such right (and where applicable, a statement of the reasons for the disapplication of such right; in such cases, the directors' justification of the issue price where the issue is for cash; if the disapplication of the right of pre-emption is intended to benefit specific persons, the identity of those persons);</p> <p>12.10.2. the total amounts which have been or are being issued or placed and the number of shares or securities offered, where applicable by category;</p> <p>12.10.3. if the issue or placing has been or is being made simultaneously on the markets of two or more countries and if a tranche has been or is being reserved for any of these, details of any such tranche including:</p> <p>12.10.3.1. the issue price or offer or placing price, stating the nominal value or, in its absence, the accounting par value or the amount to be capitalised;</p> <p>12.10.3.2. the issue premium and the amount of any expenses specifically charged to any subscriber or purchaser; and</p>

	<p>12.10.3.3. the methods of payment of the price, particularly as regards the paying- up of shares which are not fully paid;</p> <p>12.10.4. the procedure for the exercise of any right of pre-emption, transferability of subscription rights and treatment of subscription rights not exercised;</p> <p>12.10.5. the period during which the issue or offer remained open or will remain open after publication of the information memorandum and the names of the receiving agents;</p> <p>12.10.6. the names, addresses and descriptions of the persons underwriting or guaranteeing the issue and where the underwriter is a company, the description must include:</p> <p>12.10.6.1. the place and date of incorporation and registered number of the company;</p> <p>12.10.6.2. the names of the directors of the company;</p> <p>12.10.6.3. the name of the secretary of the company;</p> <p>12.10.6.4. the bankers to the company; and</p> <p>12.10.6.5. the nominal and issued share capital of the company.</p> <p>12.10.7. where not all of the issue has been or is being underwritten or guaranteed, a statement of the portion not covered;</p> <p>12.10.8. a statement or estimate of the overall amount or of the amount per share of the charges relating to the issue payable by the issuer, stating the total remuneration of the financial intermediaries, including the underwriting commission, margin, guarantee commission placing or selling agent's commission; and</p> <p>12.10.9. the estimated net proceeds accruing to the issuer from the issue and the intended application of such proceeds. If the capital offered is more than the amount of the minimum subscription referred to in paragraph 12.11, the reasons for the difference between the capital offered and the said minimum subscription.</p>
12.11.	<p>The minimum amount which, in the opinion of the directors, must be raised by the issue of the securities in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sums required to be provided, in respect of each of the following matters:</p> <p>12.11.1. the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;</p> <p>12.11.2. any preliminary expenses payable by the issuer, and any commission payable to any person in consideration for his agreeing to subscribe for, or of his procuring or agreeing to</p>

	<p>procure subscriptions for or of his underwriting any securities of the issuer;</p> <p>12.11.3. the repayment of any monies borrowed in respect of any of the foregoing matters;</p> <p>12.11.4. working capital, stating the specific purposes for which it is to be used and the estimated amount required for each of such purposes;</p> <p>12.11.5. any other material expenditure, stating the nature and purpose thereof and the estimated amount in each case;</p> <p>12.11.6. the amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue, and the sources from which those amounts are to be provided; and</p> <p>12.11.7. if the proceeds are being used directly or indirectly to acquire assets, other than in the ordinary course of business, briefly describe the assets and their cost. If the assets will be acquired from affiliates of the issuer or associates, disclose the person from whom they will be acquired and how the cost to the issuer will be determined.</p>
12.12.	A description of the securities for which application is made and, in particular, the number of securities and nominal value per security or, in the absence of nominal value, the accounting par value or the total nominal value, the exact designation or class, and coupons attached.
12.13.	If shares are to be marketed and no such shares have previously been sold to the public, a statement of the number of shares made available to the market (if any) and of their nominal value, or, if they have no nominal value, of their accounting par value, or a statement of the total nominal value and, where applicable, a statement of the minimum offer price.
12.14.	The Securities Exchange at which the securities will be listed and the dates on which the securities will be admitted to listing and on which dealings will commence.
12.15.	The names of the Securities Exchanges (if any) on which securities of the same class are already listed.
12.16.	If during the period covered by the last financial year and the current financial year, there has occurred any public takeover offer by a third party in respect of the issuer's shares, or any public takeover offer by the issuer in respect of another company's shares, a statement to that effect and a statement of the price or exchange terms attaching to any such offers and the outcome thereof.
12.17.	Where the shares for which application is being made are shares of a class which is already listed, information regarding the price history of the securities to be offered or listed shall be disclosed as indicated below. This information shall be given with respect to the market price at the securities exchange at which the securities are listed in Kenya and the principal trading market outside Kenya. If significant trading suspensions occurred in the prior three year , the issuer shall disclose:

	<p>12.17.1. for the three most recent full financial year, the annual high and low market prices;</p> <p>12.17.2. for the two recent full financial year and any subsequent period, the high and low market prices for each full financial quarter; and</p> <p>12.17.3. for the most recent six months, the high and low market prices for each month.</p>
12.18.	A statement whether the issuer assumes responsibility for the withholding of tax at source.
12.19.	To the extent known to the issuer, indicate whether major shareholders, directors or members of the issuer's management, supervisory or administrative bodies intend to subscribe in the offering or whether any person intends to subscribe for more offering, or whether any person intends to subscribe for more than five per cent of the offering.
12.20.	Identify any group of targeted potential investors to whom the securities are offered. If the offering is being made simultaneously in the markets of two or more countries and if a tranche has been or is being reserved for any of these, indicate any such tranche.
12.21.	If securities are reserved for allocation to any group of targeted investors, including, for example, offerings to existing shareholders, directors, or employees and past employees of the issuer or its subsidiaries, provide details of these and any other preferential allocation arrangements.
12.22.	Indicate whether the amount of the offering could be increased by the issuer or vendor by the exercise of a "greenshoe" option subject to a maximum of 30% of the securities offered in the prospectus in case of over subscription of securities. Further, disclose how the amount forming the green shoe option shall be utilised.
12.23.	Indicate the amount, and outline briefly the plan of distribution, of any securities that are to be offered otherwise than through underwriters. If the securities are to be offered through the selling efforts of stockbrokers or dealers, describe the plan of distribution and the terms of any agreement or understanding with such entities and identify the stockbroker or dealer that will participate in the offering stating the amount to be offered through each.
12.24.	If the securities are to be offered in connection with the writing of exchange-traded call options where applicable, (in the case of issuers listed, in securities exchange outside Kenya) describe briefly such transactions.
12.25.	Where there is a substantial disparity between the public offering price and the effective cash cost to directors or senior management, or affiliated persons, of securities acquired by them in transactions during the past year, or which they have the right to acquire, include a comparison between public contribution in the proposed public offering and the effective cash contributions of such persons.
12.26.	Disclose the amount and percentage of immediate dilution resulting from the offering, computed as the difference between the offering price per

	<p>share and the net book value per share for the equivalent class of security, as of the latest balance sheet date.</p> <p>In the case of a subscription offering to existing shareholders, disclose the amount and percentage of immediate dilution if they do not subscribe to the new offering</p>
12.27.	<p>The following information on expenses shall be provided:</p> <p>12.27.1. the total amount of the discounts or commissions agreed upon by the underwriters or other placement or selling agents and the issuer shall be disclosed, as well as the percentage such commissions represent of the total amount of the offering and the amount of discounts or commissions per share;</p> <p>12.27.2. an itemised statement of the major categories of expenses incurred in connection with the issuance and distribution of the securities to be listed or offered and by whom the expenses are payable, if other than the issuer. The following expenses shall be disclosed separately:</p> <p>12.27.2.1. advertisement;</p> <p>12.27.2.2. printing of information memorandum;</p> <p>12.27.2.3. approval and listing fees;</p> <p>12.27.2.4. brokerage commissions</p> <p>12.27.2.5. financial advisory fees;</p> <p>12.27.2.6. the legal fees; and</p> <p>12.27.2.7. underwriting fees</p> <p>12.27.3. If any of the securities are to be offered for the account of a selling shareholder, indicate the portion of such expenses to be borne by such shareholder. The information may be given subject to future contingencies. If the amounts of any items are not known, estimates (identified as such) shall be given; and</p> <p>12.27.4. The information may be given subject to future contingencies. If the amounts of any items are not known, estimates (identified as such) shall be given; and</p> <p>12.27.5. a statement or estimate of the overall amount, percentage and amount per share of the charges relating to the issue are payable by the issuer, stating the total remuneration of the intermediaries, including the underwriting commission or margin, guarantee commission, placing or selling agent's commission.</p>
12.28.	<p>Disclose the minimum amount which in the opinion of the directors must be raised through the issue of securities in form of total subscriptions in shares and value.</p>

13.	Vendors
13.1.	The names and addresses of the vendors of any assets purchased or acquired by the issuer or any subsidiary company during the year preceding the publication of the Information Memorandum or proposed to be purchased, or acquired, on capital account and the amount paid or payable in cash or securities to the vendor, and where there is more than one separate vendor, the amount so paid or payable to each vendor, and the amount (if any) payable for goodwill or items of a similar nature. The cost of assets to the vendors and dates of purchase by them if within the preceding five financial years. Where the vendor is a company, the names and addresses of the beneficial shareholders, direct and indirect, of the company, if required by the Authority. Where this information is unobtainable, the reasons therefor are to be stated.
13.2.	State whether or not the vendors have given any indemnities, guarantees or warranties.
13.3.	State whether the vendors' agreements preclude the vendors from carrying on business in competition with the issuer or any of its subsidiaries, or impose any other restriction on the vendor, and disclose details of any cash or other payment regarding restraint of trade and the nature of such restraint of trade.
13.4.	State how any liability for accrued taxation, or any apportionment, thereof to the date of acquisition, will be settled in terms of the vendors' agreements.
13.5.	Where securities are purchased in a subsidiary company, reconciliation between the amounts paid for the securities and the value of the net assets of that company. Where securities are purchased in companies other than subsidiary companies, a statement as to how the value of the securities was arrived at.
13.6.	Where any promoter or director had any beneficial interest, direct or indirect, in such transaction or where any promoter or director was a member of a partnership, syndicate or other association of persons which had such an interest, the names of any such promoter or director, and the nature and extent of his interest. Where the vendors or any of them are a partnership, the members of the partnership shall not be treated as separate vendors.
13.7.	The amount of any cash or securities paid or benefit given within the preceding year or proposed to be paid or given to any promoter not being a director, and the consideration for such payment or benefit.
13.8.	State whether the assets acquired have been transferred into the name of the issuer or any of its subsidiary companies and whether or not the assets have been ceded or pledged.

NINTH SCHEDULE

[r. 23(1)(d)]

SME MARKET SEGMENT DISCLOSURE REQUIREMENTS FOR LISTING BY
INTRODUCTION

1.	Identity of directors, senior management and advisors (persons responsible for the information disclosed)
1.1.	The name, home or business address and function of each of the persons giving the declaration set out in paragraph 1.2.
1.2.	<p>A declaration in the following form:</p> <p>The directors of the issuer, whose names appear on page [], of the information memorandum accept responsibility for the information contained in this document. To the best of the knowledge and belief of the directors (who have taken all reasonable care to ensure that such is the case) the information contained in this document is accurate and does not omit anything likely to affect the import of such information.</p> <p>Where applicable, a declaration by those responsible for certain parts of the information memorandum that, to the best of their knowledge, the information contained in those parts of the information memorandum for which they are responsible is in accordance with the facts and that those parts of the information memorandum make no omission likely to affect their import.</p>
1.3.	The names, addresses and material interest (including any negative statement) in the issuer, of the issuer's bankers, legal advisers, sponsors, reporting accountants and any other expert to whom a statement or report included in the information memorandum has been attributed.
2.	Listing statistics
2.1.	A statement that the Authority (or where applicable, the Securities Exchange if the function has been delegated by the Authority) has approved listing of the securities on the SME Market Segment of a Securities Exchange and that such approval should not be considered as an endorsement of the issuer that is the subject of the Information memorandum.
2.2.	The proposed listing price and the basis of determining the price.
2.3.	The total amount of the securities to be listed.
3.	Information on the issuer and Documents Available for Inspection
3.1.	The name (both legal and trading name, if any), registered office and, if different, head office of the issuer, and the website and any other digital platforms of the issuer (with a disclaimer that the information on the website or such digital platform does not form part of the information memorandum unless that information is incorporated by reference into the information memorandum).
3.2.	The country of incorporation or registration of the issuer.
3.3.	The date of incorporation or registration and the length of life of the issuer, except where indefinite, and its registration number.

3.4.	The legislation under which the issuer operates and the legal form which it has adopted under that legislation.
3.5.	A description of the issuer's principal objects and activities, stating the main category of products sold or services performed, and the degree of any government protection and of any investment encouragement law affecting the business.
3.6.	<p>A statement that for the duration of any listing to which the information memorandum relates, including any extension if applicable, at a named place as the Authority (or the Securities Exchange, where applicable) may agree (including an indication of the website (or other approved digital platform) on which the documents may be inspected), the following documents (or copies thereof), where applicable, could be inspected:</p> <ul style="list-style-type: none"> 3.6.1. the memorandum and articles of association (or the constitutive documents) of the issuer; 3.6.2. the latest certified appraisals or valuations relative to movable and immovable property and items of a similar nature, if applicable; 3.6.3. all reports, letters, and other documents, valuations and statements by any expert any part of which is included or referred to in the information memorandum; 3.6.4. the audited accounts of the issuer or, in the case of a group, the consolidated audited accounts of the issuer and its subsidiary undertakings for at least one year preceding the publication of the information memorandum, including, in the case of a company incorporated in Kenya, all notes, reports or information required under the Companies Act, 2015; 3.6.5. the latest competent person's report, in the case of a mineral company (mineral oil and natural gas companies).
3.8.	Where any of the documents listed in paragraph 3.6. are not in the English language, translations into English must also be available for inspection. In the case of any document mentioned in paragraph 5.1. (material contracts), a translation of a summary of such document may be made available for inspection, if the Authority (or the Securities Exchange, where applicable) so requires.
4.	Share Capital
4.1.	<p>The amount of the issuer's nominal and issued capital, the number and classes of the shares of which it is composed with details of their principal characteristics.</p> <p>If any part of the issued capital is still to be paid up, a statement of the number, total nominal value and the type of the shares not yet fully paid up, broken down according to the extent to which they have been paid up.</p> <p>If more than ten per cent of capital has been paid for with assets other than cash within the period covered by the historical financial information, state that fact.</p>

4.2.	Where the issuer has unissued capital or is committed to increase the capital, an indication of: <ul style="list-style-type: none"> 4.2.1. the amount of such nominal capital or capital increase; 4.2.2. the categories of persons having preferential subscription rights for such additional portions of capital; and 4.2.3. the terms and arrangements for the share issue corresponding to such portions.
4.3.	The amount of any convertible securities, exchangeable securities or securities with warrants, with an indication of the conditions governing the securities and the procedures for conversion, exchange or subscription.
4.4.	A summary of the provisions of the issuer's articles of association (or constitutive documents) regarding changes in capital and the respective rights of the various classes of securities.
4.5.	If an issuer has been in operation, a summary of the changes during the preceding one financial year in the amount of the issued capital of the issuer and, if material, the capital of any member of the group or the number and classes of securities of which it is composed.
4.6.	The names of the persons who, directly or indirectly, jointly or severally, exercise or could exercise control over the issuer, and particulars of the proportion of the voting capital held by such persons. For these purposes, joint control means control exercised by two or more persons who have concluded an agreement which may lead to their adopting a common policy in respect of the issuer.
4.7.	Details of any change in controlling shareholder as a result of the issue and a statement of the new trading objectives of the issuer, if different from its current objectives.
4.8.	If the issuer has subsidiary undertakings or parent undertakings, a brief description of the group of undertakings and of the issuer's position within it stating, where the issuer is a subsidiary undertaking, the name and number of shares in the issuer held (directly or indirectly) by each parent undertaking of the issuer.
5.	Material Contracts
5.1.	A summary of the principal contents of: <ul style="list-style-type: none"> 5.1.1. each material contract (not being a contract entered into in the ordinary course of business) entered into by any member of the group within the year immediately preceding the publication of the information memorandum, including particulars of dates, parties, terms and conditions, any consideration passing to or from the issuer or any other member of the group; and 5.1.2. any contractual arrangement with a controlling shareholder required to ensure that the company is capable at all times of carrying on its business independent of any controlling shareholder, including particulars of dates, terms and conditions and any consideration passing to or from the issuer or any other member of the group.

5.2.	Details of the name of any promoter of any member of the issuer and the amount of any cash, securities or benefits paid, issued or given within the year immediately preceding the date of publication of the information memorandum, or proposed to be paid, issued or given to any such promoter in his capacity as a promoter and the consideration for such payment, issue or benefit. Where the interest of such promoter consists in being a member of a partnership, company, syndicate or other association of persons, the nature and extent of the interest of such partnership, company, syndicate or other association, and the nature and extent of such promoter's interest in the partnership, company, syndicate or other association.
5.3.	A statement of all sums paid or agreed to be paid within the year immediately preceding the date of publication of the information memorandum, to any director or to any company in which he is beneficially interested, directly or indirectly, or of which he is director, or to any partnership, syndicate or other association of which he is a member, in cash or securities or otherwise, by any person either to induce him to become or to qualify him as a director, or otherwise for services rendered by him or by the company, partnership, syndicate or other association in connection with the promotion or formation of the issuer.
5.4.	Where securities are issued in connection with any merger, division of a company, takeover offer, acquisition of an undertaking's assets and liabilities or transfer of assets: <ul style="list-style-type: none"> 5.4.1. a statement of the aggregate value of the consideration for the transaction and how it was or is to be satisfied; 5.4.2. If the total emoluments receivable by the directors of the issuer will be varied in consequence of the transaction, full particulars of the variation; if there will be no variation, a statement to that effect; and 5.4.3. if the business of the issuer or any of its subsidiaries or any part thereof is managed by a third party under a contract or arrangement, the name and address (or the address of its registered office, if a company) of such third party and a description of the business so managed or to be managed and the consideration paid in terms of the contract or arrangement and any other pertinent details relevant to such contract or arrangement.
6.	Business Overview
6.1.	A description of the issuer's principal activities, stating the main category of products sold or services performed. Where the issuer or its subsidiaries carries on or proposes to carry on two or more businesses which are material having regard to the profits or losses, assets employed or to be employed, or any other factor, information as to the relative importance of each such business.
6.2.	Information on any significant new products or activities.
6.3.	Information on any legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the issuer is aware) which may have or have had in the recent past (covering at least the

	previous four months) a significant effect on the issuer's financial position or an appropriate negative statement.
6.4.	Information on any interruptions in the issuer's business which may have or have had during the recent past (covering at least the previous four months) a significant effect on the issuer's financial position.
6.5.	A description, with figures, of the main investments made, including interests such as shares, debt securities etc., in other undertakings during the current financial year.
6.6.	Information concerning the principal investments (including new plant, factories and research and development) during the current financial year being made, with the exception of interests being acquired in other undertakings, including: <ul style="list-style-type: none"> 6.6.1. the geographical distribution of these investments; and 6.6.2. the method of financing such investments.
6.7.	Information concerning the issuer's principal future investments (including new plant, factories, and research and development, if any), with the exception of interests to be acquired in other undertakings, on which the issuers directors have already made firm commitments.
6.8.	The basis for any statements made by the company regarding its competitive position shall be disclosed.
7.	Operating and financial review and information memorandum (the recent development and prospects of the issuer)
7.1.	Unless otherwise approved by the Authority (or where applicable, a Securities Exchange) in exceptional circumstances and to the extent necessary for an understanding of the issuer's business as a whole, if the issuer had declared annual accounts in the past: <ul style="list-style-type: none"> 7.1.1. general information on the trend of the issuer's business since the end of the financial year to which the last published annual accounts relate, if the issuer has published annual accounts in the past, and in particular: <ul style="list-style-type: none"> 7.1.1.1. the most significant recent trends in production, sales and stocks and the state of the order book; and 7.1.1.2. recent trends in costs and selling prices; and 7.1.1.3. information on the issuer's prospects for at least the current financial year. Such information must relate to the financial and trading prospects of the issuer together with any material information which may be relevant thereto, including all special trade factors or risks (if any) which are not mentioned elsewhere in the information memorandum and which are unlikely to be known or anticipated by the general public, and which could materially affect the profits.
7.2.	Provide information on the risk factors that are specific to the issuer or its industry and make an offering speculative or on high risk in a section headed "Risk Factors".

7.3.	<p>Describe the:</p> <p>7.3.1. extent to which the financial statements disclose material changes in net revenues, provide a narrative discussion of the extent to which such changes are attributable to changes in prices or to changes in the volume or amount of products or services being sold or to the introduction of new products or services;</p> <p>7.3.2. impact of inflation if material if the currency in which financial statements are presented is of a country that has experienced hyperinflation, the existence of such inflation, a history of the annual rate of inflation covering the period, and discussion of the impact of the hyperinflation on the issuer's business shall be disclosed;</p> <p>7.3.3. impact of foreign currency fluctuations on the issuer, if material, and the extent to which foreign currency net investments are hedged by the currency borrowing and other hedging instruments; and</p> <p>7.3.4. impact of any material governmental factors that have materially affected or could materially affect, directly or indirectly the issuer's operations or investments by the host country shareholders.</p>
7.4.	<p>Where a profit forecast or estimate appears, the principal assumptions upon which the issuer has based its forecast or estimate must be stated. Where so required, the forecast or estimate must be examined and reported on by the reporting accountants or auditors and their report must be set out. There must also be set out a report from the sponsor confirming that the forecast has been made after due and careful enquiry by the directors</p>
7.5.	<p>The opinion of the directors, stating the grounds for the same, as to the prospects of the business of the issuer and of its subsidiaries and of any subsidiary or business undertaking to be acquired, together with any material information which may be relevant thereto.</p>
8.	<p>Directors and Employees</p>
8.1.	<p>The full name, date of birth, home or business address, nationality and function in the issuer of each of the following persons and an indication of the principal activities performed by them outside the issuer where these have an impact to the issuer:</p> <p>8.1.1. directors and alternate directors of the issuer and each of its subsidiaries, including details of other directorships;</p> <p>8.1.2. the senior management of the issuer including the chief executive, board secretary, Public Offers Compliance Officer and chief finance officer, with details of professional qualifications and period of employment with the issuer for each such person;</p> <p>8.1.3. founders, if the issuer has been established as a family business or has been in existence for fewer than five years and the nature of family relationship, if any; and</p>

	8.1.4. detailed disclosure of chief executive or other senior management changes planned or expected during twelve months following the issue and listing of the security or appropriate negative statement.
8.2.	In the case of a foreign issuer, information similar to that described in 8.1, relative to the local management if any. Where the Authority (or where applicable, the Securities Exchange) considers the parent company is not adequately represented on the directorate of its subsidiaries, an explanation is required.
8.3.	The total aggregate of the remuneration paid and benefits in kind granted to the directors of the issuer by any member of the group during the last completed financial year under any description whatsoever.
8.4.	A statement showing the aggregate of the direct and indirect interests of the directors in, and the direct and indirect interests of each director holding in excess of five per cent of the share capital of the issuer, distinguishing between beneficial and non-beneficial interests, or an appropriate negative statement. The statement should include by way of a note any change in those interests occurring between the end of the financial year and the date of publication of the information memorandum, or if there has been no such change, disclosure of that fact.
8.5.	All relevant particulars regarding the nature and extent of any interests of directors of the issuer in transactions which are or were unusual in their nature or conditions or significant to the business of the issuer, and which were effected by the issuer during: <ul style="list-style-type: none"> 8.5.1. the current or immediately preceding financial year; or 8.5.2. an earlier financial year and remain in any respect outstanding or unperformed; or 8.5.3. an appropriate negative statement.
8.6.	The total of any outstanding loans granted by any member of the group to the directors of the issuer and also of any guarantees provided by any member of the group for the director's benefit.
8.7.	Particulars of any arrangement under which a director of the issuer has waived or agreed to waive future emoluments together with particulars of waivers of such emoluments in force at the date of the information memorandum.
8.8.	Details of directors' service contracts, such details to include the matters specified in paragraphs 8.8.1 to 8.8.7 or an appropriate negative statement: <ul style="list-style-type: none"> 8.8.1. the name of the employing company; 8.8.2. the date of the contract, the un-expired term and details of any notice periods; 8.8.3. full particulars of the director's remuneration including salary and other benefits; 8.8.4. any commission or profit-sharing arrangements;

	<p>8.8.5. any provision for compensation payable upon early termination of the contract;</p> <p>8.8.6. details of any other arrangements which are necessary to enable investors to estimate the possible liability of the company upon early termination of the contract; and</p> <p>8.8.7. details relating to restrictions prohibiting the director, or any person acting on his behalf or connected to him, from any dealing in securities of the company during a close period or at a time when the director is in possession of unpublished price sensitive information in relation to those securities</p>
8.9.	<p>A summary of the provisions of the constitutive documents of the issuer regarding:</p> <p>8.9.1. any power enabling a director to vote on a proposal, arrangement, or contract in which he is materially interested;</p> <p>8.9.2. any power enabling the directors, in the absence of an independent quorum, to vote remuneration (including pension or other benefits) to themselves or any members of their body.</p>
8.10.	Any arrangement or understanding with major security holders, customers, suppliers or others, pursuant to which any person referred to in 8.1, was selected as a director or member of senior management.
8.11.	Details relating to the issuer's audit committee, remuneration committee and nomination committee including the names of committee members and a summary of the terms of reference under which the committees operate.
9.	Organizational Structure
9.1.	<p>9.1.1. If the issuer is part of a group, a brief description of the group and the issuer's position within the group. This may be in the form of, or accompanied by, a diagram of the organizational structure if this helps to clarify the structure.</p> <p>9.1.2. A list of the issuer's significant subsidiaries, including name, country of incorporation or residence, the proportion of ownership interest held and, if different, the proportion of voting power held.</p>
10.	Major shareholders and related party transactions
10.1.	<p>The following information shall be provided regarding the issuer's major security holders, that is, security holders that are the beneficial owners of at least three per cent or more of each class of the issuer's voting securities:</p> <p>10.1.1. provide the names of the major security holders, and the number of securities and the percentage of outstanding securities of each class owned by each of them as of the most recent practicable date, or an appropriate negative statement if there are no major security holders;</p> <p>10.1.2. disclose any significant change in the percentage ownership held by any major security holders during the past year; and</p>

	10.1.3. indicate whether the issuer's major security holders have different voting rights, or an appropriate negative statement.
10.2.	Information on the number of all security holders of the issuer and their nationality.
10.3.	State whether the issuer is directly or indirectly owned or controlled (or significantly influenced) by any other corporation, foreign government or any other natural or legal person severally or jointly, and, if so, give the name of such controlling corporation, government or other person, and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote or a right to appoint or remove directors.
10.4.	Describe any arrangements, known to the issuer, the operation of which may at a subsequent date result in a change in control of the issuer.
10.5.	<p>Provide the information required below for the period since the beginning of the issuer's preceding financial year up to the date of the information memorandum, with respect to transactions or loans between the issuer and:</p> <ul style="list-style-type: none"> 10.5.1. enterprises that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the issuer; 10.5.2. associates; 10.5.3. Enterprises owned by directors or major security holders of the issuer (or over which such persons are able to exercise significant influence) and enterprises that have a number of key management in common with the issuer. Shareholders or security holders beneficially owning a three per cent interest in the voting power of the issuer are presumed to have a significant influence on the issuer including: <ul style="list-style-type: none"> 10.5.3.1. the nature and extent of any transactions or presently proposed transactions which are material to the issuer or the related party, or any transactions that are unusual in their nature or conditions, involving goods, services, or tangible or intangible assets, to which the issuer or any of its parent or subsidiary was a party; and 10.5.3.2. the amount of outstanding loans (including guarantees of any kind) made by the issuer or any of its parent or subsidiaries to or for the benefit of any of the persons listed above. <p>The information given should include the largest amount outstanding during the period covered, the amount outstanding as of the latest practicable date, the nature of the loan, the transaction in which it was incurred, and the interest rate on the loan.</p>
10.6.	Full information of any material inter-company finance.
10.7.	Where a statement or report attributed to a person as an expert is included in the information memorandum, a statement that it is included, in the form

	and context in which it is included, with the written form and context in which it is included, with the written consent of that person, who has authorized the contents of that part of the information memorandum, and has not withdrawn his consent.
10.8.	If any of the named experts employed on a contingent basis, owns an amount of securities in the issuer or its subsidiaries which is material to that person, or has a material, direct or indirect economic interest in the issuer or that depends on the success of the listing, provide a brief description of the nature and terms of such contingency or interest.
10.9.	Provide a copy of the share or security register to the Authority (or where applicable, the securities exchange).
11.	Financial information
11.1.	Financial information as required by paragraphs 11.9 and 11.10 set out in the form of an accountants' report.
11.2.	If applicable, an accountant's report, as set out in paragraphs 11.9 and 11.10 on the asset which is the subject of the transaction
11.3.	The annual accounts prepared by the issuer including consolidated accounts, if any. However, the issuer may exclude its own accounts on condition that they do not provide any significant additional information to that contained in the consolidated accounts with the approval of the Authority (or where applicable, the Securities Exchange) and such accounts shall be available for inspection in accordance with paragraph 3.6.
11.4.	If, in the course of the preceding financial year, the number of shares in the issuer has changed as a result, for example, of an increase in or reduction or re-organisation of capital, the profit or loss per share must be adjusted to make them comparable; in that event the basis of adjustment used must be disclosed.
11.5.	<p>11.5.1. Particulars of the dividend policy to be adopted;</p> <p>11.5.1.1. the dividend policy to be adopted;</p> <p>11.5.1.2. the pro-forma balance sheet prior to and immediately after the proposed issue of securities; and</p> <p>11.5.1.3. the effect of the proposed issue of securities on the net asset value per share.</p> <p>11.5.2. The above particulars must be prepared and presented in accordance with International Financial Reporting Standards (IFRS). If the issuer is a holding company, the information must be prepared in a consolidated form.</p>
11.6.	The amount of the total dividends, the dividend per share and the dividend cover for each of the last financial year, adjusted, if necessary, to make it comparable in accordance with paragraph 11.4.
11.7.	A description of any significant change in the financial or trading position of the issuer which has occurred since the end of the last financial period for which either audited financial statements or interim financial statements have been published, or an appropriate negative statement.

11.8.	If the issuer's own annual or consolidated annual accounts do not give a true and fair view of the assets and liabilities, financial position and profits and losses of the issuer or group, more detailed or additional information must be given. In the case of issuers incorporated in a country where issuers are not obliged to draw up their accounts so as to give a true and fair view, but are required to draw them up to an equivalent standard, the latter may be sufficient.
11.9.	A table showing the changes in financial position of the group over each of the last one financial year in the form of a cash-flow statement.
11.10.	<p data-bbox="512 680 1259 853">11.10.1. Information in respect of the matters listed below relating to each undertaking in which the issuer holds (directly or indirectly) on a long-term basis an interest in the capital that is likely to have a significant effect on the assessment of the issuer's own assets and liabilities, financial position or profits and losses:</p> <p data-bbox="624 869 1259 898">11.10.1.1. the name and address of the registered office;</p> <p data-bbox="624 913 1259 943">11.10.1.2. the field of activity;</p> <p data-bbox="624 958 1259 987">11.10.1.3. the proportion of capital held;</p> <p data-bbox="624 1003 1259 1032">11.10.1.4. the issued capital;</p> <p data-bbox="624 1048 1259 1077">11.10.1.5. the reserves;</p> <p data-bbox="624 1093 1259 1151">11.10.1.6. the profit or loss arising out of ordinary activities, after tax, for the last financial year;</p> <p data-bbox="624 1167 1259 1225">11.10.1.7. the value at which the issuer shows in its accounts the interest held;</p> <p data-bbox="624 1240 1259 1270">11.10.1.8. any amount still to be paid up on securities held;</p> <p data-bbox="624 1285 1259 1368">11.10.1.9. the amount of dividends received in the course of the last financial year in respect of shares held; and</p> <p data-bbox="624 1384 1259 1442">11.10.1.10. the amount of the debts owed to and by the issuer with regard to the undertaking.</p> <p data-bbox="512 1458 1259 1742">11.10.2. The items of information listed in 11.10.1 must be given in any event for every undertaking in which the issuer has a direct or indirect participating interest, if the book value of that participating interest represents at least twenty per cent of the capital and reserves of the issuer or if that interest accounts for at least twenty per cent of the net profit or loss of the issuer or, in the case of a group, if the book value of that participating interest represents at least twenty per cent of the consolidated net assets or at least twenty per cent of the consolidated net profit or loss of the group</p> <p data-bbox="512 1758 1259 1850">11.10.3. The information required by 11.10.1.5 and 11.10.1.6 may be omitted where the undertaking in which a participating interest is held does not publish annual accounts.</p>

	<p>11.10.4. The information required by 11.10.1.4 to 11.10.1.10 may be omitted if the annual accounts of the undertakings in which the participating interests are held are consolidated into the issuer annual accounts or, with the exception of 11.10.1.9 and 11.10.1.10, if the value attributable to the interest under the equity method is disclosed in the annual accounts, provided that in the opinion of the Authority (or the Securities Exchange, where applicable), the omission of the information is not likely to mislead the public with regard to the facts and circumstances, knowledge of which is essential for the assessment of the securities in question.</p>
11.11.	<p>The name, registered office and proportion of capital held in respect of each undertaking not failing to be disclosed under paragraph 11.10.1 or 11.10.2 in which the issuer holds at least twenty per centum of the capital. These details may be omitted when they are of negligible importance for the purpose of enabling investors and their investment advisers to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the issuer or group and of the rights attaching to the securities to be listed.</p>
11.12.	<p>When the information memorandum includes consolidated annual accounts, disclosure:</p> <p>11.12.1. of the consolidation principles applied (which must be described explicitly where such principles are not consistent with International Financial Reporting Standards (IFRS));</p> <p>11.12.2. of the names and registered offices of the undertakings included in the consolidation, where that information is important for the purpose of assessing the assets and liabilities, financial position and profits and losses of the issuer; it is sufficient to distinguish them by a symbol in the list of undertakings of which details are required in paragraph 11.10; and</p> <p>11.12.3. for each of the undertakings referred to in 11.12.2:</p> <p>11.12.3.1. the total proportion of third-party interests, if annual accounts are wholly consolidated; or</p> <p>11.12.3.2. the proportion of the consolidation calculated on the basis of interests, if consolidation has been effected on a pro rata basis.</p>
11.13.	<p>Particulars of any arrangement under which future dividends may be waived or agreed to be waived.</p>
11.14.	<p>11.14.1. Details on a consolidated basis as at the most recent practicable date (which must be stated and which in the absence of exceptional circumstances must not be more than fourteen days prior to the date of publication of the information memorandum of the following, if material:</p> <p>11.14.1.1. the borrowing powers of the issuer and its subsidiaries exercisable by the directors and the</p>

	<p>manner in which such borrowing powers may be varied;</p> <p>11.14.1.2. the circumstances, if applicable, under which the borrowing powers have been exceeded during the past three years. Any exchange control or other restrictions on the borrowing powers of the issuer or any of its subsidiaries;</p> <p>11.14.1.3. the total amount of any loan capital outstanding in all members of the group, and loan capital created but unissued, and term loans, distinguishing between loans guaranteed, unguaranteed, secured (whether the security is provided by the issuer or by third parties), and unsecured;</p> <p>11.14.1.4. all off-balance sheet financing by the issuer and any of its subsidiaries;</p> <p>11.14.1.5. the total amount of all other borrowings and indebtedness in the nature of borrowing of the group, distinguishing between guaranteed, unguaranteed, secured and unsecured borrowings and debts, including bank overdrafts, liabilities under acceptances (other than normal trade bills) or acceptance credits, hire purchase commitments and obligations under finance leases;</p> <p>11.14.1.6. the total amount of any material commitments, lease payments and contingent liabilities or guarantees of the group; or</p> <p>11.14.1.7. how the borrowings required to be disclosed under paragraphs 11.14.1.3 to 11.14.1.6 arose, stating whether they arose from the purchase of assets by the issuer or any of its subsidiaries.</p> <p>11.14.2. An appropriate negative statement must be given in each case where relevant, in the absence of any loan capital, borrowings, indebtedness and contingent liabilities described in 11.14.1.</p> <p>11.14.3. As a general rule, no account shall be taken of liabilities or guarantees between undertakings within same group, a statement to that effect being made if necessary.</p> <p>11.14.4. For each item identified in 11.14.1, where applicable:</p> <p>11.14.4.1. the names of the lenders if not debenture holders;</p> <p>11.14.4.2. the amount, terms and conditions of repayment or renewal;</p> <p>11.14.4.3. the rates of interest payable on each item;</p>
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	<p>11.14.4.4. details of the security, if any;</p> <p>11.14.4.5. details of conversion rights; and</p> <p>11.14.4.6. where the issuer or any of its subsidiaries has debts which are repayable within twelve months, state how the payments are to be financed.</p> <p>11.14.5. The principles set out in paragraph 11.5 shall apply where the issuer prepares consolidated annual accounts under this paragraph.</p>
11.15.	<p>Details of material loans by the issuer or by any of its subsidiaries stating:</p> <p>11.15.1. the date of the loan;</p> <p>11.15.2. to whom made;</p> <p>11.15.3. the rate of interest;</p> <p>11.15.4. if the interest is in arrears, the last date on which it was paid and the extent of the arrears;</p> <p>11.15.5. the period of the loan;</p> <p>11.15.6. the security held;</p> <p>11.15.7. the value of such security and the method of valuation;</p> <p>11.15.8. if the loan is unsecured, the reasons therefor; and</p> <p>11.15.9. if the loan was made to another company, the names and addresses of the directors of such company.</p>
11.16.	<p>Details as described in paragraph 11.15 of loans made or security furnished by the issuer or by any of its subsidiaries for the benefit of any director or manager or any associate of any director or manager.</p>
11.17.	<p>Disclose how the loans receivable arose, stating whether they arose from the sale of assets by the issuer or any of its subsidiaries.</p>
11.18.	<p>11.18.1. A statement that in the opinion of the directors, the issued capital of the issuer is adequate for the purposes of the business of the issuer and of its subsidiaries for the foreseeable future, and if the directors are of the opinion that it is inadequate; the extent of the inadequacy and the manner in which and the sources from which the issuer and its subsidiaries are to be financed.</p> <p>11.18.2. The statement should be supported by a report from the issuer's auditor, reporting accountant, investment banker, sponsoring stockbroker or other adviser acceptable to the Authority.</p> <p>11.18.3. The foreseeable future should normally be construed as the nine months subsequent to the date of the publication of the information memorandum.</p>

11.19.	<p>The issuer shall make the following information regarding the acquisition, within the last year, or proposed acquisition by the issuer or any of its subsidiaries, of any securities in or the business undertaking of any other company or business enterprise or any immovable property or other property in the nature of a fixed asset (collectively called "the property") or any option to acquire such property shall be disclosed:</p> <ul style="list-style-type: none"> 11.19.1. the date of any such acquisition or proposed acquisitions; 11.19.2. the consideration, detailing that settled by the issue of securities, the payment of cash or by any other means, and detailing how any outstanding consideration is to be settled; 11.19.3. details of the valuation of the property; 11.19.4. any goodwill paid and how such goodwill was or is to be accounted for; 11.19.5. any loans incurred, or to be incurred, to finance the acquisition, or proposed acquisition; 11.19.6. the nature of title or interest acquired or to be acquired; and 11.19.7. details regarding the vendors as described in paragraph 13.
11.20.	<p>The following details regarding any property disposed of during the past year, or to be disposed of, by the issuer, or any of its subsidiaries:</p> <ul style="list-style-type: none"> 11.20.1. the dates of any such disposal or proposed disposal; 11.20.2. the consideration received, detailing that settled by the receipt of securities or cash or by any other means and detailing how any outstanding consideration is to be settled; 11.20.3. details of the valuation of the property; and 11.20.4. the names and addresses of the purchasers of assets sold. If any purchaser was a company, the names and addresses of the beneficial shareholders of the company. If any promoter or director had any interest, directly or indirectly, in such transaction or where any promoter or director was a member of a partnership, syndicate or other association of persons which had such an interest, the names of any such promoter or director, and the nature and extent of his interest.
11.21.	<p>Where the financial statements provided under paragraphs 11.1 to 11.5 are prepared in a currency other than Kenya shillings, disclosure of the exchange rate between the financial reporting currency and Kenya shillings should be provided, using the mean exchange rate designated by the Central Bank of Kenya for this purpose, if any:</p> <ul style="list-style-type: none"> 11.21.1. at the latest practicable date; 11.21.2. the high and low exchange rates for each month during the preceding twelve months; and 11.21.3. for the most recent financial year and any subsequent interim period for which financial statements are presented, the average rates for each period, calculated by using the

	average of the exchange rates on the last day of each month during the period.
12.	The listing
12.1.	A statement of the resolutions, authorizations and approvals by virtue of which the securities have been or are to be listed.
12.2.	The nature and amount of the securities to be listed.
12.3.	<p>12.3.1. A summary of the rights attaching to the securities for which an application is made, and in particular the extent of the voting rights, entitlement to share in the profits and, in the event of liquidation, in any surplus and any other special rights. Where there is or is to be more than one class of shares of the issuer in issue, like details must be given for each class.</p> <p>12.3.2. If the rights evidenced by the securities being listed are or may be materially limited or qualified by the rights evidenced by any other class of securities or by the provisions of any contract or other documents, include information regarding such limitation or qualification and its effect on the rights evidenced by the securities to be listed.</p> <p>12.3.3. The time limit (if any) after which entitlement to dividend lapses and an indication of the person in whose favour the lapse operates.</p>
12.4.	<p>A statement regarding tax on the income from the shares withheld at source:</p> <p>12.4.1. in the country of origin; and</p> <p>12.4.2. in Kenya.</p>
12.5.	The fixed date (if any) on which entitlement to dividends arises.
12.6.	Details of any other Securities Exchanges (if any) where admission to listing is being or will be sought within one year after the listing of the securities.
12.7.	The names and addresses of the issuer's registrar and paying agent for the shares in any other country where admission to listing has taken place.
12.8.	<p>The following information must be given concerning the terms and conditions of the listing at a securities exchange where such listing is being effected at the same time as the subject listing or has been effected within the three months preceding application of the subject listing:</p> <p>12.8.1. if the listing has been or is being made simultaneously on the markets of two or more countries-</p> <p>12.8.1.1. the listing price, stating the nominal value or, in its absence, the accounting par value; and</p> <p>12.8.1.2. the share premium;</p> <p>12.8.2. the period during which the information memorandum will be available prior to the admission to listing and the names of the receiving agents;</p> <p>12.8.3. a statement or estimate of the overall amount of the charges relating to the listing payable by the issuer.</p>

12.9.	A description of the securities for which application is made and, in particular, the number of securities and nominal value per security or, in the absence of nominal value, the accounting par value or the total nominal value, the exact designation or class, and coupons attached.
12.10.	The Securities Exchange at which the securities will be listed and the dates on which the securities will be admitted to listing and on which dealings will commence.
12.11.	The names of the Securities Exchanges (if any) on which securities of the same class are already listed.
12.12.	If during the period covered by the last financial year and the current financial year, there has occurred any public takeover offer by a third party in respect of the issuer's shares, or any public takeover offer by the issuer in respect of another company's shares, a statement to that effect and a statement of the price or exchange terms attaching to any such offers and the outcome thereof.
12.13.	A statement whether the issuer assumes responsibility for the withholding of tax at source.
12.14.	Where there is a substantial disparity between the listing price and the effective cash cost to directors or senior management, or affiliated persons, of securities acquired by them in transactions during the past year, or which they have the right to acquire, include a comparison between that offer price and the listing price.
12.15.	Disclose the amount and percentage of immediate dilution resulting from the listing, computed as the difference between the listing price per share and the net book value per share for the equivalent class of security, as of the latest balance sheet date.
12.16.	<p>The following information on expenses shall be provided:</p> <p>12.16.1. an itemised statement of the major categories of expenses incurred in connection with listing and by whom the expenses are payable, if other than the issuer. The following expenses shall be disclosed separately:</p> <p>12.16.1.1. advertisement;</p> <p>12.16.1.2. printing of information memorandum;</p> <p>12.16.1.3. approval and listing fees;</p> <p>12.16.1.4. financial advisory fees;</p> <p>12.16.1.5. the legal fees.</p> <p>12.16.2. The information may be given subject to future contingencies. If the amounts of any items are not known, estimates (identified as such) shall be given; and</p> <p>12.16.3. a statement or estimate of the overall amount, percentage and amount per share of the charges relating to the listing are payable by the issuer, stating the total remuneration of the intermediaries</p>

13.	Vendors
13.1.	The names and addresses of the vendors of any assets purchased or acquired by the issuer or any subsidiary company during the year preceding the publication of the Information Memorandum or proposed to be purchased, or acquired, on capital account and the amount paid or payable in cash or securities to the vendor, and where there is more than one separate vendor, the amount so paid or payable to each vendor, and the amount (if any) payable for goodwill or items of a similar nature. The cost of assets to the vendors and dates of purchase by them if within the preceding five financial years. Where the vendor is a company, the names and addresses of the beneficial shareholders, direct and indirect, of the company, if required by the Authority. Where this information is unobtainable, the reasons therefor are to be stated.
13.2.	State whether or not the vendors have given any indemnities, guarantees or warranties.
13.3.	State whether the vendors' agreements preclude the vendors from carrying on business in competition with the issuer or any of its subsidiaries, or impose any other restriction on the vendor, and disclose details of any cash or other payment regarding restraint of trade and the nature of such restraint of trade.
13.4.	State how any liability for accrued taxation, or any apportionment, thereof to the date of acquisition, will be settled in terms of the vendors' agreements.
13.5.	Where securities are purchased in a subsidiary company, reconciliation between the amounts paid for the securities and the value of the net assets of that company. Where securities are purchased in companies other than subsidiary companies, a statement as to how the value of the securities was arrived at.
13.6.	Where any promoter or director had any beneficial interest, direct or indirect, in such transaction or where any promoter or director was a member of a partnership, syndicate or other association of persons which had such an interest, the names of any such promoter or director, and the nature and extent of his interest. Where the vendors or any of them are a partnership, the members of the partnership shall not be treated as separate vendors.
13.7.	The amount of any cash or securities paid or benefit given within the preceding year or proposed to be paid or given to any promoter not being a director, and the consideration for such payment or benefit.
13.8.	State whether the assets acquired have been transferred into the name of the issuer or any of its subsidiary companies and whether or not the assets have been ceded or pledged.

TENTH SCHEDULE

*[r. 23(1)(e)]*MAIN FIXED INCOME SECURITIES MARKET SEGMENT DISCLOSURE
REQUIREMENTS FOR PUBLIC ISSUES

1.0.	Identity of directors, senior management and advisers (i.e. persons responsible for the information disclosed)
1.1.	The name, home or business address and function of each of the persons giving the declaration set out in paragraph
1.2.	<p>A declaration in the following form:</p> <p>The directors of [the issuer], whose names appear on page [] of the prospectus, accept responsibility for the information contained in this document. To the best of the knowledge and belief of the directors (who have taken all reasonable care to ensure that such is the case) the information contained in this document is in accordance with facts and does not omit anything likely to affect the import of such information.</p> <p>Where applicable, a declaration by those responsible for certain parts of the information memorandum that, to the best of their knowledge, the information contained in those parts of the information memorandum for which they are responsible is in accordance with the facts and that those parts of the information memorandum make no omission likely to affect their import.</p>
1.3.	The names, addresses, qualifications of the auditors who have audited the issuer's annual accounts in accordance with International Standards of Auditing for the last two financial years.
1.4.	If auditors have resigned, have been removed or have not been re-appointed during the last two financial years and have deposited a statement with the issuer of circumstances which they believe should be brought to the attention of members and creditors of the issuer, details of such matters must be disclosed.
1.5.	<p>The names, addresses and material interest, including any negative statement, if any, in the issuer, of the issuer's bankers, legal advisers, sponsors, reporting accountants and any other expert to whom a statement or report included in the prospectus has been attributed.</p> <p>Where a statement or report attributed to a person as an expert is included in the information memorandum, a statement that it is included, in the form and context in which it is included, with the written consent of that person, who has authorised the contents of that part of the information memorandum, and has not withdrawn his consent.</p>
1.6.	Where information has been sourced from a third party, provide a confirmation that this information has been accurately reproduced and that as far as the issuer is aware and is able to ascertain from information published by that third party, no facts have been omitted which would render the reproduced information inaccurate or misleading. In addition, identify the source of the information.

1.0.	Offer Statistics and Expected Timetable
1.1.	<p>A statement that:</p> <ul style="list-style-type: none"> (a) the Authority has approved the public offering and listing of the securities at the Fixed Income Securities Market Segment of a securities exchange; (b) the Authority only approves the information memorandum as meeting the standards of completeness, comprehensibility and consistency imposed by these Regulations; and (c) such approval should not be considered as an endorsement of the issuer that is the subject of the Information memorandum.
2.0.	Information on the Issuer
2.1.	The name (both legal and trading name, if any), registered office and, if different, head office of the issuer, and the website and any other digital platforms of the issuer (with a disclaimer that the information on the website and any other digital platforms does not form part of the prospectus unless that information is incorporated by reference into the prospectus).
2.2.	The country of incorporation of the issuer.
2.3.	The date of incorporation and the length of life of the issuer, except where indefinite.
2.4.	The legislation under which the issuer operates and the legal form which it has adopted under that legislation.
2.5.	A description of the issuer's principal objects and activities, stating the main category of products sold or services performed, and the degree of any government protection and of any investment encouragement law affecting the business.
2.6.	The place and date of registration of the issuer and its registration number.
2.7.	Details of any recent events particular to the issuer and which are to a material extent relevant to an evaluation of the issuer's solvency.
2.8.	Credit ratings assigned to an issuer at the request or with the cooperation of the issuer in the rating process. A brief explanation of the meaning of the ratings if this has previously been published by the rating provider.
3.0.	Documents Available for Inspection
3.1.	<p>A statement that for a period of not less than five working days from the date of the information memorandum or for the duration of any offer to which the information memorandum relates, if longer, at the issuers premises, where the following documents or copies thereof (where applicable) could be inspected:</p> <ul style="list-style-type: none"> 3.1.1. the articles of association (or the constitutive documents) of the issuer; 3.1.2. any trust deed of the issuer or of its subsidiary undertakings which is referred to in the information memorandum including any other transaction agreement including, but without

	<p>limitation, the agency agreements, issue agreements, escrow agreements and security agreements;</p> <p>3.1.3. the latest certified appraisals or valuations relative to movable and immovable property and items of a similar nature, if applicable;</p> <p>3.1.4. all reports, letters, and other documents, valuations and statements by any expert any part of which is included or referred to in the prospectus;</p> <p>3.1.5. the audited accounts of the issuer or, in the case of a group, the consolidated audited accounts of the issuer and its subsidiary undertakings for each of the two financial years preceding the publication of the prospectus, including, in the case of a company incorporated in Kenya, all notes, reports or information required by the Companies Act, 2015;</p> <p>3.1.6. All other documents that would be relevant and material for consideration by an investor.</p>
3.2.	Where any of the documents listed in paragraph 3.1 are not in the English language, translations into English must also be available for inspection.
4.0.	Share Capital
4.1.	The amount of the issuer's issued capital, the number and classes of the shares of which it is composed with details of their principal characteristics. If any part of the issued capital is still to be paid up, a statement of the number, or total nominal value, and the type of the shares not yet fully paid up, broken down, where applicable, according to the extent to which they have been paid up. If more than ten per cent of capital has been paid for with assets other than cash within the period covered by the historical financial information, state that fact.
4.2.	The names of the persons, who, directly or indirectly, jointly or severally, exercise or could exercise control over the issuer, and particulars of the proportion of the voting capital held by such persons. For these purposes, joint control means control exercised by two or more persons who have concluded an agreement, which may lead to their adopting a common policy in respect of the issuer.
4.3.	If the issuer has subsidiary undertakings or parent undertakings, a brief description of the group of undertakings and of the issuers position within it stating, where the issuer is a subsidiary undertaking, the name of and number of shares in the issuer held (directly or indirectly) by each parent undertaking of the issuer.
5.0.	Material Contracts
5.1.	<p>A summary of the principal contents of:</p> <p>5.1.1. each material contract (not being a contract entered into in the ordinary course of business) entered into by any member of the group within the two years immediately preceding the publication of the prospectus, including particulars of dates,</p>

	<p>parties, terms and conditions, any consideration passing to or from the issuer or any other member of the group, unless such contracts are available for inspection in which case it will be sufficient to refer to them collectively as being available for inspection in accordance with paragraph 3.1.; and</p> <p>5.1.2. any contractual arrangement with a controlling shareholder required to ensure that the issuer is capable at all times of carrying on its business independently of any controlling shareholder, including particulars of dates, terms and conditions and any consideration passing to or from the issuer or any other member of the group.</p>
6.0.	Business Overview
6.1.	A description of the group's principal activities, stating the main categories of products sold or services performed. Where the issuer or its subsidiaries carries on or proposes to carry on two or more businesses which are material having regard to the profits or losses, assets employed or to be employed, or any other factor, information as to the relative importance of each such business.
6.2.	Details of any material changes in the businesses of the issuer during the past five years.
6.3.	Where the information given pursuant to paragraphs 7.1 to 7.2 has been influenced by exceptional factors, that fact must be mentioned.
6.4.	Information on any legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the issuer is aware) which may have or have had in the recent past (covering at least the previous four months) a significant effect on the group's financial position or an appropriate negative statement
6.5.	Information on any interruptions in the group's business, which may have or have had during the recent past (covering at least the previous four months) a significant effect on the group's financial position.
6.6.	<p>Information concerning the principal investments (including new plant, factories and research and development) being made during the current financial year, with the exception of interests being acquired in other undertakings, including:</p> <p>6.6.1. the geographical distribution of these investments; and</p> <p>6.6.2. the method of financing such investments.</p>
6.7.	Information concerning the group's principal future investments (including new plant, factories, and research and development, if any), with the exception of interests to be acquired in other undertakings, on which the issuer's directors have already made firm commitments.
6.8.	Information concerning policy on the research and development of new products and processes over the past three financial years, where significant.
6.9.	The basis for any statements made by the issuer regarding its competitive position shall be disclosed.

7.0.	Operating and Financial Review and Prospectus (Recent Development and Prospects of the Group) and Profit Forecasts and Estimates
7.1.	<p>Unless otherwise approved by the Authority in exceptional circumstances and to the extent necessary for an understanding of the issuer's business as a whole:</p> <p>7.1.1. general information on the trend of the group's business since the end of the financial year to which the last published annual accounts relate, and in particular:</p> <p>7.1.1.1. the most significant recent trends in production, sales and stock and the state of the order book; and</p> <p>7.1.1.2. recent trends in costs and selling prices.</p> <p>7.1.2. Information on the group's prospects for at least the current financial year. Such information must relate to the financial and trading prospects of the group together with any material information which may be relevant thereto, including all special trade factors or risks (if any) which are not mentioned elsewhere in the prospectus and which are unlikely to be known or anticipated by the general public, and which could materially affect the profits.</p>
7.2.	Provide information on the risk factors that are specific to the issuer or its industry and make an offering speculative or on high risk in a section headed "Risk Factors".
7.3.	Where a profit forecast or estimate appears, the principal assumptions upon which the issuer has based its forecast or estimate must be stated. Where so required, the forecast or estimate must be examined and reported on by the reporting accountants or auditors and their report must be set out; there must also be set out a report from the sponsor confirming that the forecast has been made after due and careful enquiry by the directors.
7.4.	The opinion of the directors, stating the grounds therefor, as to the prospects of the business of the issuer and of its subsidiaries and of any subsidiary or business undertaking to be acquired, together with any material information which may be relevant thereto.
8.0.	Directors and Employees
8.1.	In the case of a foreign issuer, information similar to that described in 9.1, relative to the local management, if any. Where the Authority considers the parent company is not adequately represented on the directorate of its subsidiaries, an explanation is required.
8.2.	A statement showing the aggregate of the direct and indirect interests of the directors in, and the direct and indirect interests of each director holding in excess of three per cent of the share capital of the issuer, distinguishing between beneficial and non-beneficial interests, or an appropriate negative statement. The statement should include by way of a note any change in those interests occurring between the end of the financial year and the date of publication of the prospectus, or if there has been no such change, disclosure of that fact.

8.3.	<p>Organizational Structure</p> <p>If the issuer is part of a group, a brief description of the group and the issuer's position within the group. This may be in the form of, or accompanied by, a diagram of the organizational structure if this helps to clarify the structure.</p> <p>A list of the issuer's significant subsidiaries, including name, country of incorporation or residence, the proportion of ownership interest held and, if different, the proportion of voting power held.</p>
9.0.	Major Shareholders and Related Party Transactions
9.1.	<p>The following information shall be provided regarding the issuer's major shareholders, which means shareholders that are the beneficial owners of at least three per cent or more of the issuer's voting securities:</p> <p>9.1.1. provide the names of the major shareholders, and the number of shares and the percentage of outstanding shares of each class owned by each of them as of the most recent practicable date, or an appropriate negative statement if there are no major shareholders;</p> <p>9.1.2. disclose any significant change in the percentage ownership held by any major shareholders during the past three financial years; and</p> <p>9.1.3. indicate whether the issuer's major shareholders have different voting rights, or an appropriate negative statement.</p>
9.2.	To the extent known to the issuer, state whether the issuer is directly or indirectly owned, controlled, or significantly influenced by another corporation, by any foreign government or by any other natural or legal person severally or jointly, and, if so, give the name of such controlling corporation, government or other person, and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote or a right to appoint or remove directors.
9.3.	Describe any arrangements, known to the issuer, the operation of which may at a subsequent date result in a change in control of the issuer.
9.4.	Full information of any material inter-company finance.
9.5.	If any of the named experts was employed on a contingent basis, owns an amount of shares in the issuer or its subsidiaries which is material to that person, or has a material, direct or indirect economic interest in the issuer or that depends on the success of the offering, provide a brief description of the nature and terms of such contingency or interest.
10.0.	Financial Information
10.1.	A statement that the annual accounts of the issuer for the last three financial years have been audited. If audit reports on any of those accounts have been refused by the auditors or contain qualifications, such refusal or such qualifications must be reproduced in full and the reasons given.

10.2.	A statement of what other information in the prospectus has been audited by the auditors.
10.3.	Financial information as required by paragraphs 11.9. to 11.11. set out in the form of a comparative table together with any subsequent interim financial statements if available.
10.4.	Financial information as required by paragraphs 11.9. to 11.11 set out in the form of an accountants' report.
10.5.	If applicable, an accountants' report, as set out in paragraphs 11.9 to 11.11 on the asset which is the subject of the transaction.
10.6.	<p>10.6.1. If the issuer prepares consolidated annual accounts only, it must include those accounts in the prospectus in accordance with paragraph 11.3 or 11.4.</p> <p>10.6.2. If the issuer prepares both own and consolidated annual accounts, it must include both sets of accounts in the prospectus in accordance with paragraph 11.3 or 11.4. However, the issuer may exclude its own accounts on condition that they do not provide any significant additional information to that contained in the consolidated accounts, with the approval of the Authority.</p>
10.7.	<p>10.7.1. Where the issuer includes its own annual accounts in the prospectus, it must state the profit or loss per share arising out of the issuer's ordinary activities, after tax for each of the last five financial years.</p> <p>10.7.2. Where the issuer includes consolidated annual accounts in the prospectus, it must state the consolidated profit or loss per share for each of the last five financial years; this information must appear in addition to that provided in accordance with above where the issuer also includes its own annual accounts in the prospectus</p>
10.8.	A description of any significant change in the financial or trading position of the group which has occurred since the end of the last financial period for which either audited financial statements or interim financial statements have been published, or an appropriate negative statement.
10.9.	If the issuer's own annual or consolidated annual accounts do not give a true and fair view of the assets and liabilities, financial position and profits and losses of the group, more detailed or additional information must be given. In the case of issuers incorporated in a country where issuers are not obliged to draw up their accounts so as to give a true and fair view, but are required to draw them up to an equivalent standard, the latter may be sufficient
10.10.	A table showing the changes in financial position of the group over each of the last three financial years.
10.11.	The accountant's report shall disclose a proforma balance sheet, profit and loss account and a cash flow projection for the next twelve months following the issue and the following ratios for the last three financial years immediately preceding the issue:

	<p>10.11.1. earnings before interest and taxes interest cover;</p> <p>10.11.2. funds from operations to total debt percentage;</p> <p>10.11.3. free cash flow to total debt percentage;</p> <p>10.11.4. total free cash flow to short-term debt obligations;</p> <p>10.11.5. not profit margin;</p> <p>10.11.6. post-tax return (before financing on capital employed);</p> <p>10.11.7. long term debt to capital employed; and</p> <p>10.11.8. total debt to equity.</p>
10.12.	<p>Where the prospectus includes consolidated annual accounts, disclosures are required:</p> <p>10.12.1. of the consolidation principles applied (which must be described explicitly where such principles are not consistent with IFRS);</p> <p>10.12.2. of the names and registered offices of the undertakings included in the consolidation, where that information is important for the purpose of assessing the assets and liabilities, financial position and profits and losses of the issuer; it is sufficient to distinguish them by a symbol in the list of undertakings of which details are required in paragraph 11.15; and</p> <p>10.12.3. for each of the undertakings referred to in 11.12.2</p> <p>10.12.3.1. the total proportion of third-party interests, if annual accounts are wholly consolidated; or</p> <p>10.12.3.2. the proportion of the consolidation calculated on the basis of interests, if consolidation has been effected on a pro rata basis.</p>
10.13.	<p>10.13.1. Details on a consolidated basis as at the most recent practicable date (which must be stated and which in the absence of exceptional circumstances must not be more than fourteen days prior to the date of publication of the prospectus) of the following, if material:</p> <p>10.13.1.1. the borrowing powers of the issuer and its subsidiaries exercisable by the directors and the manner in which such borrowing powers may be varied;</p> <p>10.13.1.2. the circumstances, if applicable, if the borrowing powers have been exceeded during the past two years. Any exchange control or other restrictions on the borrowing powers of the issuer or any of its subsidiaries;</p> <p>10.13.1.3. the total amount of any loan capital outstanding in all members of the group, and loan capital created but un-issued, and term loans.</p>

	<p>distinguishing between loans guaranteed, unguaranteed, secured (whether the security is provided by the issuer or by third parties), and unsecured;</p> <p>10.13.1.4. all off-balance sheet financing by the issuer and any of its subsidiaries;</p> <p>10.13.1.5. the total amount of all other borrowings and indebtedness in the nature of borrowing of the group, distinguishing between guaranteed, unguaranteed, secured and unsecured borrowings and debts, including bank overdrafts, liabilities under acceptances (other than normal trade bills) or acceptance credits, hire purchase commitments and obligations under finance leases;</p> <p>10.13.1.6. the total amount of any material commitments, lease payments and contingent liabilities or guarantees of the group; or</p> <p>10.13.1.7. how the borrowings required to be disclosed by paragraphs 11.13.3 to 11.13.7 arose, stating whether they arose from the purchase of assets by the issuer or any of its subsidiaries.</p> <p>10.13.2. An appropriate negative statement must be given in each case where relevant, in the absence of any loan capital, borrowings, indebtedness and contingent liabilities described in 11.13.1; as a general rule, no account should be taken of liabilities or guarantees between undertakings within the same group, a statement to that effect being made if necessary.</p> <p>10.13.3. For each item identified in (1) above, where applicable:</p> <p>10.13.3.1. the names of the lenders, if not debenture holders;</p> <p>10.13.3.2. the amount, terms and conditions of repayment or renewal;</p> <p>10.13.3.3. the rates of interest payable on each item;</p> <p>10.13.3.4. details of the security, if any;</p> <p>10.13.3.5. details of conversion rights;</p> <p>10.13.3.6. where the issuer or any of its subsidiaries has debts which are repayable within twelve months, state how the payments are to be financed; and</p> <p>10.13.3.7. if the issuer prepares consolidated annual accounts, the principles laid down in paragraph 11.6 apply to the information set out in this paragraph 11.13.</p>
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10.14.	<p>Details of material loans by the issuer or by any of its subsidiaries stating:</p> <p>10.14.1. the date of the loan;</p> <p>10.14.2. to whom made;</p> <p>10.14.3. the rate of interest;</p> <p>10.14.4. if the interest is in arrears, the last date on which it was paid and the extent of the arrears;</p> <p>10.14.5. the period of the loan;</p> <p>10.14.6. the security held;</p> <p>10.14.7. the value of such security and the method of valuation;</p> <p>10.14.8. if the loan is unsecured, the reasons therefor; and</p> <p>10.14.9. if the loan was made to another company, the names and addresses of the directors of such company.</p>
10.15.	<p>10.15.1. Information in respect to matters listed below relating to each undertaking in which the issuer holds (directly or indirectly) on a long-term basis an interest in the capital that is likely to have a significant effect on the assessment of the issuer's own assets and liabilities, financial position or profits or losses:</p> <p>10.15.1.1. the name and address of the registered office;</p> <p>10.15.1.2. field of activity;</p> <p>10.15.1.3. the proportion of capital held;</p> <p>10.15.1.4. the issued capital;</p> <p>10.15.1.5. the reserves;</p> <p>10.15.1.6. the profit or loss arising out of ordinary activities, after tax, for the last financial year;</p> <p>10.15.1.7. the value at which the issuer shows in its accounts the interest held;</p> <p>10.15.1.8. any amount still to be paid up on shares held;</p> <p>10.15.1.9. the amount of dividends received in the course of the last financial year in respect of shares held; and</p> <p>10.15.1.10. the amount of the debts owed to and by the issuer with regard to the undertaking.</p> <p>10.15.2. The items of information listed in 11.15.1 must be given in any event for every undertaking in which the issuer has a direct or indirect participating interest, if the book value of that participating interest represents at least twenty per cent of the capital and reserves of the issuer or if that interest accounts for at least twenty per cent of the net profit or loss of the issuer or, in the case of a group, if the book value of</p>

	<p>that participating interest represents at least twenty per cent of the consolidate net assets or at least twenty per cent of the consolidated net profit or loss of the group.</p> <p>10.15.3. The information required by 11.15.1. 5 and 11.15.1.6 may be omitted where the undertaking in which a participating interest is held does not publish annual accounts.</p> <p>10.15.4. The information required by 11.15.1.4 to 11.15.1.10 may be omitted if the annual accounts of the undertakings in which the participating interests are held are consolidated into the group annual accounts, or, with the exception of 11.15.1.9 and 11.15.1.10, if the value attributable to the interest under the equity method is disclosed in the annual accounts, provided that in the opinion of the Authority, the omission of the information is not likely to mislead the public with regard to the facts and circumstances, knowledge of which is essential for the assessment of securities in question.</p>
10.16.	A statement by the directors of the issuer that in their opinion the working capital available to the group is sufficient for the group's present requirements, or, if not, how it is proposed to provide the additional working capital thought by the directors of the issuer to be necessary. The working capital statement should be prepared on the group, as enlarged by the acquisition of assets.
10.17.	<p>Where the financial statements provided under paragraphs 11.1 to 11.5 are prepared in a currency other than Kenya shillings, disclosure of the exchange rate between the financial reporting currency and Kenya shillings should be provided, using the mean exchange rate designated by the Central Bank of Kenya for this purpose, if any:</p> <p>10.17.1. at the latest practicable date;</p> <p>10.17.2. the high and low exchange rates for each month during the preceding twelve months;</p> <p>10.17.3. for the five most recent financial years and any subsequent interim period for which financial statements are presented, the average rates for each period, calculated by using the average of the exchange rates on the last day of each month during the period; and</p> <p>10.17.4. if the proceeds are being used directly or indirectly to acquire assets, other than in the ordinary course of business, briefly describe the assets and their cost. If the assets will be acquired from affiliates of the issuer or associates, disclose the person from whom they will be acquired and how the cost to the issuer will be determined.</p>
10.18.	A declaration from the receiving bank appointed to act as custodian confirming independence from the issuer, and that the funds related to the issue are held in a trust account.
11.0.	The debt securities for which application is being made

11.1.	A statement that application has been made to the Authority for the securities to be listed (if applicable) in the Fixed Income Securities Market Segment, setting out the relevant debt securities.
11.2.	A statement whether or not all the debt securities have been marketed or are available in whole or in part to the public in conjunction with the application.
11.3.	The nominal amount of the debt securities and if this amount is not fixed, a statement to that effect must be made.
11.4.	The nature, number and numbering of the debt securities and the denominations.
11.5.	Except in the case of continuous issues of short-term debt securities, the issue and redemption prices and nominal interest rate. If several interest rates or variable interest rates are provided for, an indication of the conditions for changes in the rate.
11.6.	The procedures for the allocation of any other advantages and the method of calculating such advantages.
11.7.	A statement regarding tax on the income from the debt securities withheld at source: <ul style="list-style-type: none"> 11.7.1. in the country of origin (if applicable); and 11.7.2. Kenya
11.8.	A statement whether the issuer assumes responsibility for the withholding of tax at source.
11.9.	Arrangements for the amortization of the loan, including the repayment procedures
11.10.	The names and addresses of the issuer's registrar and paying agent for the securities in any other country where the securities listing (if applicable) has taken place.
11.11.	The currency of the loan and any currency option; if the loan is denominated in units of account, the contractual status of such units.
11.12.	The final repayment date and any earlier repayment dates.
11.13.	The date from which interest becomes payable and the due dates for interest.
11.14.	The time limit on the validity of claims to interest and repayment of principal.
11.15.	The procedures and time limits for delivery of the debt securities, and a statement as to whether temporary documents of title will be issued.
11.16.	Except in the case of continuous issues in respect of short-term securities, a statement of yield. The method whereby that yield is calculated must be described in summary form.
11.17.	A statement of the resolutions, authorizations and approvals by virtue of which the debt securities have been or will be created or issued.

11.18.	The nature and amount of the issue.
11.19.	The number of debt securities which have been or will be created or issued.
11.20.	The nature and scope of the guarantees, sureties and commitments intended to ensure that the loan will be duly serviced as regards both the repayment of the debt securities and the payment of interest
11.21.	Details of trustees or of any other representation for the body of debt security holders.
11.22.	<p>A statutory declaration from the trustee confirming its independence from the issuer and any other party in the transaction, and that they understand their responsibilities as contained in the Trust Deed appointing them.</p> <p>11.22.1. The name, function, description and head office of the trustee or other representative of the debt security holders; and</p> <p>11.22.2. The main terms of the document governing such trusteeship or representation and in particular the conditions under which such trustee or representative may be replaced.</p>
11.23.	A summary of clauses subordinating the loan to other debts of the issuer already contracted or to be contracted.
11.24.	A statement of the legislation under which the debt securities have been created and the courts competent in the event of litigation.
11.25.	A statement whether the debt securities are in registered or certificate form or where dematerialised a statement of account to be issued.
11.26.	Details of any arrangements for transfer of the securities and any restrictions on the free transferability of the debt securities.
11.27.	Other securities exchanges (if any) where listing is being or will be sought.
11.28.	<p>11.28.1. The names, addresses and descriptions of the persons underwriting or guaranteeing the issue, and: where the underwriter is a company, the description must include:</p> <p>11.28.1.1. the place and date of incorporation and registered number of the issuer;</p> <p>11.28.1.2. the names of the directors of the company;</p> <p>11.28.1.3. the name of the secretary of the company;</p> <p>11.28.1.4. the bankers to the company where applicable; and</p> <p>11.28.1.5. the authorised and issued share capital of the company.</p> <p>11.28.2. Where the issue is fully or partially guaranteed, the guarantor shall assume the responsibility and redemption obligation under the issue and in that regard, shall satisfy the Authority of its financial capacity to guarantee the issue.</p>

	<p>11.28.3. Where the guarantor is a bank or an insurance company licensed to operate in Kenya, the consent of the Central Bank of Kenya or the Commissioner of Insurance, as the case may be, will be required.</p> <p>11.28.4. Where not all of the issue is underwritten or guaranteed, a statement of the portion not covered shall be made.</p>
11.29.	If a public or private offer or placing has been or is being made simultaneously on the markets of two or more countries and if a tranche has been or is being reserved for certain of these, details of any such tranche.
11.30.	The names of the securities exchanges (if any) on which debt securities of the same class are already listed.
11.31.	If debt securities of the same class have not yet been listed but are dealt in on one or more other regulated, regularly operating, recognised, open markets, an indication of such markets.
11.32.	<p>If an issue is being effected at the same time as listing or has been effected within the three months preceding such listing the following information must be given:</p> <p>11.32.1. the procedure for the exercise of any right of pre-emption; the negotiability of subscription rights, the treatment of subscription rights not exercised and:</p> <p>11.32.1.1. the issue price or offer or placing price, stating the nominal value or, in its absence, the accounting par value or the amount to be capitalised;</p> <p>11.32.1.2. the issue premium or discount and the amount of any expenses specifically charged to the subscriber or purchaser; and</p> <p>11.32.1.3. the methods of payment of the price, particularly as regards the paying-up of securities which are not fully paid.</p> <p>11.32.2. except in the case of continuous debt security issues, the period during which the issue or offer remained open or will remain open and any possibility of early closure.</p> <p>11.32.3. the methods of and time limits for delivery of the securities and a statement as to whether temporary documents of title have been or will be issued.</p> <p>11.32.4. the names of the receiving agents.</p> <p>11.32.5. a statement, where necessary, that the subscriptions may be reduced and a statement of the relative facts where it is the intention, in the event of over subscription, to extend a preference on allotment to any particular company or group such as employees and pension funds.</p> <p>11.32.6. except in the case of continuous debt security issues, the estimated net proceeds of the loan. If the capital offered is</p>

	<p>more than the amount of the minimum subscription referred to in paragraph 12.33, the reason for the difference between the capital offered and the said minimum subscription.</p> <p>11.32.7. the purpose of the issue and intended application of its proceeds.</p>
11.33.	<p>The minimum amount which, in the opinion of the directors, must be raised by the issue of the securities in order to provide the sums, or, if any part thereof is to be order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sums required to be provided, in respect of each of the following matters:</p> <p>11.33.1. the purchase price of any property, purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;</p> <p>11.33.2. any preliminary expenses payable by the issuer, and any commission payable to any person in consideration for his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for or of his underwriting or guaranteeing any securities of the issuer;</p> <p>11.33.3. the repayment of any moneys borrowed in respect of any of the forgoing matters;</p> <p>11.33.4. working capital, stating the specific purposes for which it is to be used and the estimated amount required for each such purpose;</p> <p>11.33.5. any other material expenditure, stating the nature and purposes thereof and the estimated amount in each case; and</p> <p>11.33.6. the amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue, and the sources from which those amounts are to be provided.</p>
11.34.	A summary of the rights conferred upon the holders of the debt securities and particulars of the security (if any) therefor.
11.35.	Where debt securities are issued by way of conversion or replacement of debt securities previously issued, a statement of all material differences between the security for the old debt securities and the security for the new debt securities, or, if appropriate, a statement that the security for the new debt securities is identical with all security for the old debt securities.
11.36.	Particulars of the profits cover for interest (if fixed), and of the net tangible assets.
11.37.	<p>Where the debt securities for which application is being made are offered by way of rights or open offer to the holders of an existing listed security, the following information must be given:</p> <p>11.37.1. the pro rata entitlement;</p> <p>11.37.2. the last date on which transfers were or will be accepted for registration for participation in the issue;</p>

	<p>11.37.3. how the securities rank for interest;</p> <p>11.37.4. the nature of the document of title and its proposed date of issue;</p> <p>11.37.5. in the case of a rights issue or open offer, how debt securities not taken up will be dealt with and the time in which the offer may be accepted;</p> <p>11.37.6. a statement pointing out possible tax implications for non-residents.</p>
11.38.	In respect of convertible debt securities, information concerning the nature of the shares offered by way of conversion, exchange or for subscription and the rights attaching thereto.
11.39.	In respect of convertible debt securities, the conditions of and procedures for conversion, exchange or subscription and details of the circumstances in which they may be amended
11.40.	Where the debt securities for which application is being made are debt securities of a class which is already listed, being offered by way of rights or open offer, a table of market values for the securities of the class to which the rights issue or offer relates for the first dealing day in each of the six months before the date of the particulars, for the last dealing day before the announcement of the rights issue or offer and (if different) the latest practicable date prior to publication of the particulars.
11.41.	Where an issuer seeks to raise additional capital amounting to twenty percent or more of the aggregate value of its listed fixed income securities such issuer shall obtain prior approval of the holders of such listed fixed income securities and the Authority
11.42.	Provide signed copies of all agreements between the issuer and transaction advisory team before the offer opening date.

ELEVENTH SCHEDULE

*[r. 23(1)(f)]*SME FIXED INCOME SECURITIES MARKET SEGMENT DISCLOSURE
REQUIREMENTS FOR PUBLIC ISSUES (LISTED AND UNLISTED)

1.	Identity of directors, senior management and advisers (i.e. persons responsible for the information disclosed)
1.1.	The name, business address, profile and function of each of the persons giving the declaration set out in paragraph 1.2.
1.2.	<p>A declaration in the following form:</p> <p>The directors of [the issuer], whose names appear on page [] of the information memorandum, accept responsibility for the information contained in this document. To the best of the knowledge and belief of the directors (who have taken all reasonable care to ensure that such is the case) the information contained in this document is in accordance with facts and does not omit anything likely to affect the import of such information.</p> <p>Where applicable, a declaration by those responsible for certain parts of the information memorandum that, to the best of their knowledge, the information contained in those parts of the information memorandum for which they are responsible is in accordance with the facts and that those parts of the information memorandum make no omission likely to affect their import.</p>
1.3.	<p>The names, addresses and material interest, including any negative statement, if any, in the issuer, of the issuer's bankers, legal advisers, sponsors, reporting accountants and any other expert to whom a statement or report included in the information memorandum has been attributed.</p> <p>Where a statement or report attributed to a person as an expert is included in the information memorandum, a statement that it is included, in the form and context in which it is included, with the written consent of that person, who has authorised the contents of that part of the information memorandum and has not withdrawn his consent.</p>
1.4.	Where information has been sourced from a third party, provide a confirmation that this information has been accurately reproduced and that as far as the issuer is aware and is able to ascertain from information published by that third party, no facts have been omitted which would render the reproduced information inaccurate or misleading. In addition, identify the source of the information.
2.	Offer Statistics and Expected Timetable
2.1.	<p>A statement that:</p> <p>2.1.1. the Authority has approved the public offering (and listing of the securities at the SME Fixed Income Securities Market Segment of a Securities Exchange;</p> <p>2.1.2. the Authority only approves the information memorandum as meeting the standards of completeness, comprehensibility and consistency imposed by these Regulations; and</p>

	2.1.3. such approval should not be considered as an endorsement of the issuer that is the subject of the Information memorandum.
2.2.	The total amount of the securities to be listed.
3.	Information on the Issuer
3.1.	The name (both legal and trading name, if any), registered office and, if different, head office of the issuer, and the website and any other digital platforms of the issuer, with a disclaimer that the information on the website or such other digital platform does not form part of the information memorandum unless that information is incorporated by reference into the information memorandum.
3.2.	The country of incorporation of the issuer.
3.3.	The date of incorporation and the length of life of the issuer, except where indefinite.
3.4.	The legislation under which the issuer operates and the legal form which it has adopted under that legislation.
3.5.	A description of the issuer's principal objects and activities, stating the main category of products sold or services performed, and the degree of any government protection and of any investment encouragement law affecting the business.
3.6.	The place and date of registration of the issuer and its registration number.
3.7.	Details of any recent events particular to the issuer and which are to a material extent relevant to an evaluation of the issuer's solvency.
3.8.	Credit ratings assigned to an issuer at the request or with the cooperation of the issuer in the rating process. A brief explanation of the ratings if this has previously been published by the rating provider.
4.	Documents available for inspection
4.1.	<p>A statement that for the duration of any offer to which the information memorandum relates, including any extension if applicable, at a named place as the Authority may approve (including an indication of the website (or other approved digital platform) on which the documents may be inspected), where the following documents or copies thereof (where applicable) could be inspected:</p> <p>4.1.1. The articles of association (or the constitutive documents) of the issuer;</p> <p>4.1.2. any trust deed of the issuer or of its subsidiary undertakings which is referred to in the information memorandum including any other transaction agreement including, but without limitation, the agency agreements, issue agreements, escrow agreements and security agreements;</p> <p>4.1.3. the latest certified appraisals or valuations relative to movable and immovable property and items of a similar nature, if applicable;</p>

	<p>4.1.4. all reports, letters, and other documents, valuations and statements by any expert any part of which is included or referred to in the information memorandum;</p> <p>4.1.5. the audited accounts of the issuer or, in the case of a group, the consolidated audited accounts of the issuer and its subsidiary undertakings for each of the one financial year preceding the publication of the information memorandum, including, in the case of a company incorporated in Kenya, all notes, reports or information required by the Companies Act, 2015;</p> <p>4.1.6. All other documents that would be relevant and material for consideration by an investor.</p>
4.2.	Where any of the documents listed in paragraph 4.1. are not in the English language, translations into English must also be available for inspection.
5.	Share Capital
5.1.	The amount of the issuer's nominal issued capital, the number and classes of the shares of which it is composed with details of their principal characteristics. If any part of the issued capital is still to be paid up, a statement of the number, or total nominal value, and the type of the shares not yet fully paid up, broken down, where applicable, according to the extent to which they have been paid up. If more than ten per cent of capital has been paid for with assets other than cash within the period covered by the historical financial information, state that fact.
5.2.	The names of the persons, who, directly or indirectly, jointly or severally, exercise or could exercise control over the issuer and particulars of the proportion of the voting capital held by such persons. For these purposes, joint control means control exercised by two or more persons who have concluded an agreement, which may lead to their adopting a common policy in respect of the issuer.
5.3.	If the issuer has subsidiary undertakings or parent undertakings, a brief description of the group of undertakings and of the issuers position within it stating, where the issuer is a subsidiary undertaking, the name of and number of shares in the issuer held (directly or indirectly) by each parent undertaking of the issuer.
6.	Material Contracts
6.1.	<p>A summary of the principal contents of:</p> <p>6.1.1. each material contract (not being a contract entered into in the ordinary course of business) entered into by any member of the group within the year immediately preceding the publication of the information memorandum, including particulars of dates, parties, terms and conditions, any consideration passing to or from the issuer or any other member of the group; and</p> <p>6.1.2. any contractual arrangement with a controlling shareholder required to ensure that the issuer is capable at all times of carrying on its business independent of any controlling</p>

	shareholder, including particulars of dates, terms and conditions and any consideration passing to or from the issuer or any other member of the group.
7.	Business Overview
7.1.	A description of the group's principal activities, stating the main categories of products sold or services performed. Where the issuer or its subsidiaries carries on or proposes to carry on two or more businesses which are material having regard to the profits or losses, assets employed or to be employed, or any other factor, information as to the relative importance of each such business.
7.2.	Details of any material changes in the businesses of the issuer during the past year.
7.3.	Where the information given pursuant to paragraphs 7.1 to 7.2 has been influenced by exceptional factors, that fact must be mentioned.
7.4.	Information on any legal or arbitration proceedings, including any such proceedings which are pending or threatened of which the issuer is aware, which may have or have had a significant effect on the group's financial position or an appropriate negative statement
7.5.	Information on any interruptions in the issuer's business, which may have or have had during the recent past, covering at least the previous four months, a significant effect on the issuer's financial position.
7.6.	Information concerning the principal investments (including new plant, factories and research and development) being made during the current financial year, with the exception of interests being acquired in other undertakings, including: <ul style="list-style-type: none"> 7.6.1. the geographical distribution of these investments; and 7.6.2. the method of financing such investments.
7.7.	Information concerning the issuer's principal future investments (including new plant, factories, and research and development, if any), with the exception of interests to be acquired in other undertakings, on which the issuer's directors have already made firm commitments.
7.8.	The basis and source for any statements made by the issuer regarding its competitive position shall be disclosed.
8.	Operating And Financial Review and Information Memorandum (The Recent Development and Prospects of The Issuer) And Profit Forecasts and Estimates
8.1.	Unless otherwise approved by the Authority in exceptional circumstances and to the extent necessary for an understanding of the issuer's business as a whole: <ul style="list-style-type: none"> 8.1.1. general information on the trend of the issuer's business since the end of the financial year to which the last published annual accounts relate, and in particular:

	<p>8.1.1.1. the most significant recent trends in production, sales and stock and the state of the order book; and</p> <p>8.1.1.2. recent trends in costs and selling prices.</p> <p>8.1.2. Information on the issuer's prospects for at least the current financial year. Such information must relate to the financial and trading prospects of the group together with any material information which may be relevant thereto, including all special trade factors or risks (if any) which are not mentioned elsewhere in the prospectus, and which are unlikely to be known or anticipated by the general public, and which could materially affect the profits.</p>
8.2.	Provide information on the risk factors that are specific to the issuer or its industry and make an offering speculative or on high risk in a section headed Risk Factors and Mitigation Measures.
8.3.	Where a profit forecast or estimate appears, the principal assumptions upon which the issuer has based its forecast or estimate must be stated. Where so required, the forecast or estimate must be examined and reported on by the reporting accountants or and their report must be set out; there must also be set out a report from the sponsor confirming that the forecast has been made after due and careful enquiry by the directors.
8.4.	The opinion of the directors, stating the grounds therefor, as to the prospects of the business of the issuer and of its subsidiaries and of any subsidiary or business undertaking to be acquired, together with any material information which may be relevant thereto.
9.	Directors and Employees
9.1.	<p>The full name, date of birth, home or business address, nationality and function in the issuer of each of the following persons and an indication of the principal activities performed by them outside the issuer where these are significant with respect to the issuer:</p> <p>9.1.1. Directors and alternate directors of the issuer and each of its material subsidiaries including details of other directorships;</p> <p>9.1.2. the senior management of the issuer including the chief executive, board secretary and chief finance officer, with details of professional qualifications and period of employment with the issuer for each such person;</p> <p>9.1.3. founders, if the issuer has been established as a family business and the nature of family relationship;</p> <p>9.1.4. detailed disclosure of chief executive or other senior management changes planned or expected during twelve months following the issue and listing of the security or appropriate negative statement.</p>
9.2.	In the case of a foreign issuer, information similar to that described in 9.1, relative to the local management, if any. Where the Authority considers the parent company is not adequately represented on the directorate of its subsidiaries, an explanation is required.

9.3.	A statement showing the aggregate of the direct and indirect interests of the directors in, and the direct and indirect interests of each director holding in excess of 3% of the share capital of the issuer, distinguishing between beneficial and non-beneficial interests, or an appropriate negative statement. The statement should include by way of a note any change in those interests occurring between the end of the financial year and the date of publication of the prospectus, or if there has been no such change, disclosure of that fact.
10.	Organizational Structure
10.1	<p>10.1.1. If the issuer is part of a group, a brief description of the group and the issuer's position within the group. This may be in the form of a diagram of the organizational structure.</p> <p>10.1.2. A list of the issuer's significant subsidiaries, including name, country of incorporation or residence, the proportion of ownership interest held and, if different, the proportion of voting power held.</p>
11.	Major Shareholders and Related Party Transactions
11.1.	<p>The following information shall be provided regarding the issuer's major shareholders, that is, shareholders that are the beneficial owners of at least 3% or more of the issuer's voting securities:</p> <p>11.1.1. provide the names of the major shareholders, and the number of shares and the percentage of outstanding shares of each class owned by each of them as of the most recent practicable date, or an appropriate negative statement if there are no major shareholders;</p> <p>11.1.2. disclose any significant change in the percentage ownership held by any major shareholders during the past three financial years; and</p> <p>11.1.3. indicate whether the issuer's major shareholders have different voting rights, or an appropriate negative statement.</p>
11.2.	Information on the number of all the shareholders of the issuer and their nationalities.
11.3.	State whether the issuer is directly or indirectly owned, controlled, or significantly influenced by another corporation, by any foreign government or by any other natural or legal person severally or jointly, and, if so, give the name of such controlling corporation, government or other person, and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote or a right to appoint or remove directors.
11.4.	Describe any arrangements, known to the issuer, the operation of which may at a subsequent date result in a change in control of the issuer.
11.5.	Provide information required below for the period since the beginning of the issuer's preceding five financial years up to the date of the information memorandum, with respect to transactions or loans between the issuer and:

	<p>11.5.1. enterprises that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the issuer;</p> <p>11.5.2. associates;</p> <p>11.5.3. individuals owning, directly or indirectly, an interest in the voting power of the issuer that gives them significant influence over the issuer, and close members of any such individual's family;</p> <p>11.5.4. key management personnel, that is, those persons having authority and responsibility for planning, directing and controlling the activities of the issuer, including directors and senior management of the issuer and close members of such individuals' families; and</p> <p>11.5.5. Enterprises owned by directors or major shareholders of the issuer (or over which such persons are able to exercise significant influence) and enterprises that have a number of key management in common with the issuer. Shareholders beneficially owning a three per cent interest in the voting power of the issuer are presumed to have significant influence on the issuer, including:</p> <p>11.5.5.1. the nature and extent of any transactions or presently proposed transactions which are material to the issuer or the related party, or any transactions that are unusual in their nature or conditions, involving goods, services, or tangible or intangible assets, to which the issuer or any of its parent or subsidiaries was a party; and</p> <p>11.5.5.2. the amount of outstanding loans (including guarantees of any kind) made by the issuer or any of its parent or subsidiary to or for the benefit of any of the persons listed in this paragraph.</p> <p>11.5.6. The information given shall include the largest amount outstanding during the period covered, the amount outstanding as of the latest practicable date, nature of the costs, the transaction in which it was incurred and the interest rate on such transaction.</p>
11.6.	Full information of any material inter-company finance.
11.7.	If any of the named experts was employed on a contingent basis, owns an amount of shares in the issuer or its subsidiaries which is material to that person, or has a material, direct or indirect economic interest in the issuer or that depends on the success of the offering, provide a brief description of the nature and terms of such contingency or interest.
12.	Financial Information
12.1.	A statement that the annual accounts of the issuer for the last financial year has been audited. If audit reports on any of those accounts have been refused by the auditors or contain qualifications, such refusal or such qualifications must be reproduced in full and the reasons given.

12.2.	A statement of what other information in the information memorandum has been audited by the auditors.
12.3.	Financial information as required by paragraphs 12.9 to 12.11 set out in the form of a comparative table together with any subsequent interim financial statements if available.
12.4.	Financial information as required by paragraphs 12.9 to 12.11 set out in the form of an accountants' report.
12.5.	If applicable, an accountants' report, as set out in paragraphs 12.9 to 12.11 on the asset which is the subject of the transaction.
12.6.	<p>12.6.1. If the issuer prepares consolidated annual accounts only, it must include those accounts in the information memorandum in accordance with paragraph 12.3 or 12.4.</p> <p>12.6.2. If the issuer prepares both own and consolidated annual accounts, it must include both sets of accounts in the information memorandum in accordance with paragraph 12.3 or 12.4. However, the issuer may exclude its own accounts on condition that they do not provide any significant additional information to that contained in the consolidated accounts, subject to the approval of the Authority.</p>
12.7.	<p>12.7.1. Where the issuer includes its own annual accounts in the information memorandum, it must state the profit or loss per share arising out of the issuer's ordinary activities, after tax for each of the last financial year.</p> <p>12.7.2. Where the issuer includes consolidated annual accounts in the information memorandum, it must state the consolidated profit or loss per share for each of the last financial year; this information must appear in addition to that provided in accordance with above where the issuer also includes its own annual financial statements in the information memorandum.</p>
12.8.	A description of any significant change in the financial or trading position of the group which has occurred since the end of the last financial period for which either audited financial statements or interim financial statements have been published, or an appropriate negative statement.
12.9.	If the issuer's own annual or consolidated annual accounts do not give a true and fair view of the assets and liabilities, financial position and profits and losses of the group, more detailed or additional information must be given. In the case of issuers incorporated in a country where issuers are not obliged to draw up their accounts so as to give a true and fair view, but are required to draw them up to an equivalent standard, the latter may be sufficient.
12.10.	The accountant's report shall disclose a proforma statement of financial position and financial performance and a cash flow projection for the next twelve months following the issue and the following ratios for the last three financial years immediately preceding the issue:

	<p>12.10.1. earnings before interest and taxes interest cover;</p> <p>12.10.2. funds from operations to total debt percentage;</p> <p>12.10.3. free cash flow to total debt percentage;</p> <p>12.10.4. total free cash flow to short-term debt obligations;</p> <p>12.10.5. net profit margin;</p> <p>12.10.6. post-tax return (before financing on capital employed);</p> <p>12.10.7. long term debt to capital employed; and</p> <p>12.10.8. total debt to equity.</p>
12.11.	<p>Where the information memorandum includes consolidated financial statements, disclosures are required:</p> <p>12.11.1. of the consolidation principles applied, which must be described explicitly where such principles are not consistent with IFRS;</p> <p>12.11.2. of the names and registered offices of the undertakings included in the consolidation, where that information is important for the purpose of assessing the assets and liabilities, financial position and profits and losses of the issuer; it is sufficient to distinguish them by a symbol in the list of undertakings of which details are required in paragraph 12.15; and</p> <p>12.11.3. for each of the undertakings referred to in 12.12.2:</p> <p>12.11.3.1. the total proportion of third-party interests, if annual accounts are wholly consolidated; or</p> <p>12.11.3.2. the proportion of the consolidation calculated on the basis of interests, if consolidation has been effected on a pro rata basis.</p>
12.12.	<p>12.12.1. Details on a consolidated basis as at the most recent practicable date, which must be stated and which in the absence of exceptional circumstances must not be more than fourteen days prior to the date of publication of the information memorandum, of the following:</p> <p>12.12.1.1. the borrowing powers of the issuer and its subsidiaries exercisable by the directors and the manner in which such borrowing powers may be varied;</p> <p>12.12.1.2. the circumstances, if the borrowing powers have been exceeded during the past two years. Any exchange control or other restrictions on the borrowing powers of the issuer or any of its subsidiaries;</p> <p>12.12.1.3. the total amount of any loan capital outstanding in all members of the group, and loan capital created but un-issued, and term</p>

	loans, distinguishing between loans guaranteed, un-guaranteed, secured, whether the security is provided by the issuer or by third parties, and unsecured;
12.12.1.4.	all off-balance sheet financing by the issuer and any of its subsidiaries;
12.12.1.5.	the total amount of all other borrowings and indebtedness in the nature of borrowing of the group, distinguishing between guaranteed, un-guaranteed, secured and unsecured borrowings and debts, including bank overdrafts, liabilities under acceptances (other than normal trade bills) or acceptance credits, hire purchase commitments and obligations under finance leases;
12.12.1.6.	the total amount of any material commitments, lease payments and contingent liabilities or guarantees of the group; or
12.12.1.7.	how the borrowings required to be disclosed by paragraphs 12.13.3 to 12.13.7. above arose, stating whether they arose from the purchase of assets by the issuer or any of its subsidiaries.
12.12.2.	An appropriate negative statement must be given in each case where relevant, in the absence of any loan capital, borrowings, indebtedness and contingent liabilities described in 12.13.1 above. As a general rule, no account should be taken of liabilities or guarantees between undertakings within the same group, a statement to that effect shall be made.
12.12.3.	For each item identified in 12.13.1 above, where applicable:
12.12.3.1.	the names of the lenders, if not debenture holders;
12.12.3.2.	the amount, terms and conditions of repayment or renewal;
12.12.3.3.	the rates of interest payable on each item;
12.12.3.4.	details of the security, if any;
12.12.3.5.	details of conversion rights;
12.12.3.6.	where the issuer or any of its subsidiaries has debts which are repayable within twelve months, state how the payments are to be financed; and
12.12.3.7.	if the issuer prepares consolidated annual accounts, the principles laid down in paragraph 12.6 apply to the information set out in this paragraph 12.13.

12.13.	<p>Details of material loans by the issuer or by any of its subsidiaries stating:</p> <p>12.13.1. the date of the loan;</p> <p>12.13.2. to whom made;</p> <p>12.13.3. the rate of interest;</p> <p>12.13.4. if the interest is in arrears, the last date on which it was paid and the extent of the arrears;</p> <p>12.13.5. the period of the loan;</p> <p>12.13.6. the security held;</p> <p>12.13.7. the value of such security and the method of valuation;</p> <p>12.13.8. if the loan is unsecured, the reasons therefor; and</p> <p>12.13.9. if the loan was made to another company, the names and addresses of the directors of such company.</p>
12.14.	<p>12.14.1. Information in respect to matters listed below relating to each undertaking in which the issuer holds (directly or indirectly) on a long-term basis an interest in the capital that is likely to have a significant effect on the assessment of the issuer's own assets and liabilities, financial position or profits or losses:</p> <p>12.14.1.1. the name and address of the registered office;</p> <p>12.14.1.2. field of activity;</p> <p>12.14.1.3. the proportion of capital held;</p> <p>12.14.1.4. the issued capital;</p> <p>12.14.1.5. the reserves;</p> <p>12.14.1.6. the profit or loss arising out of ordinary activities, after tax, for the last financial year;</p> <p>12.14.1.7. the value at which the issuer shows in its accounts the interest held;</p> <p>12.14.1.8. any amount still to be paid up on shares held;</p> <p>12.14.1.9. the amount of dividends received in the course of the last financial year in respect of shares held; and</p> <p>12.14.1.10. the amount of the debts owed to and by the issuer with regard to the undertaking.</p> <p>12.14.2. The items of information listed in 12.14.1 must be given in any event for every undertaking in which the issuer has a direct or indirect participating interest, if the book value of that participating interest represents at least twenty per cent of the capital and reserves of the issuer or if that interest accounts for at least twenty per cent of the net profit or loss of the issuer or, in the case of a group, if the book value of that participating interest represents at least twenty</p>

	<p>per cent of the consolidate net assets or at least twenty per cent of the consolidated net profit or loss of the group.</p> <p>12.14.3. The information required by 12.14.1.5 and 12.14.1.6 maybe omitted where the undertaking in which a participating interest is held does not publish annual financial statements.</p> <p>12.14.4. The information required by 12.14.1.4 to 12.14.1.10 may be omitted if the annual accounts of the undertakings in which the participating interests are held are consolidated into the group annual financial statements, or, with the exception of 12.14.1.9 and 21.14.1.10 above, if the value attributable to the interest under the equity method is disclosed in the annual financial statements, provided that in the opinion of the Authority, the omission of the information is not likely to mislead the public with regard to the facts and circumstances, knowledge of which is essential for the assessment of securities in question.</p>
12.15.	A statement by the directors of the issuer that in their opinion the working capital available to the issuer is sufficient for the issuer's present requirements, or, if not, how it is proposed to provide the additional working capital thought by the directors of the issuer to be necessary. The working capital statement should be prepared on the group, as enlarged by the acquisition of assets.
12.16.	<p>Where the financial statements provided under paragraphs 12.1 to 12.5. are prepared in a currency other than Kenya shillings, disclosure of the exchange rate between the financial reporting currency and Kenya shillings should be provided, using the mean exchange rate designated by the Central Bank of Kenya for this purpose, if any:</p> <p>12.16.1. at the latest practicable date;</p> <p>12.16.2. the high and low exchange rates for each month during the preceding twelve months;</p> <p>12.16.3. for the five most recent financial years and any subsequent interim period for which financial statements are presented, the average rates for each period, calculated by using the average of the exchange rates on the last day of each month during the period; and</p> <p>12.16.4. if the proceeds are being used directly or indirectly to acquire assets, other than in the ordinary course of business, briefly describe the assets and their cost. If the assets will be acquired from affiliates of the issuer or associates, disclose the person from whom they will be acquired and how the cost to the issuer will be determined.</p>
12.17.	A declaration from the receiving bank appointed to act as custodian confirming independence from the issuer and that the funds related to the issue will be held in a trust account.

13.	The Debt Securities for which application is being made
13.1.	A statement that application has been made to the Authority for the securities to be listed, if applicable, in the SME Fixed Income Securities Market Segment, setting out the relevant debt securities.
13.2.	A statement whether or not all the debt securities have been marketed or are available in whole or in part to the public in conjunction with the application.
13.3.	The nominal amount of the debt securities and if this amount is not fixed, a statement to that effect must be made.
13.4.	The nature, number and numbering of the debt securities and the denominations.
13.5.	Except in the case of continuous issues of short-term debt securities, the issue and redemption prices and the nominal interest rate. If several interest rates or variable interest rates are provided for, an indication of the conditions for changes in the rate.
13.6.	The procedures for the allocation of any other advantages and the method of calculating such advantages.
13.7.	A statement regarding tax on the income from the debt securities withheld at source in the country of origin, if applicable, and Kenya.
13.8.	A statement whether the issuer assumes responsibility for the withholding of tax at source.
13.9.	Arrangements for the amortization of the loan, including the repayment procedures
13.10.	The names and addresses of the issuer's registrar and paying agent for the securities in any other country where the securities listing has taken place, if applicable.
13.11.	The currency of the loan and any currency option; if the loan is denominated in units of account, the contractual status of such units.
13.12.	The final repayment date and any earlier repayment dates.
13.13.	The date from which interest becomes payable and the due dates for interest.
13.14.	The time limit on the validity of claims to interest and repayment of principal.
13.15.	The procedures and time limits for delivery of the debt securities, and a statement as to whether temporary documents of title will be issued.
13.16.	Except in the case of continuous issues in respect of short-term securities, a statement of yield. The method whereby that yield is calculated must be described in summary form.
13.17.	A statement of the resolutions, authorizations and approvals by virtue of which the debt securities have been or will be created or issued.
13.18.	The nature and amount of the issue.

13.19.	The number of debt securities which have been or will be created or issued.
13.20.	The nature and scope of the guarantees, sureties and commitments intended to ensure that the loan will be duly serviced as regards both the repayment of the debt securities and the payment of interest.
13.21.	Details of trustees or of any other representation for the body of debt security holders.
13.22.	<p>A statutory declaration from the trustee confirming its independence from the issuer and any other party in the transaction, and that they understand their responsibilities as contained in the Trust Deed appointing them.</p> <p>13.22.1. The name, function, description and head office of the trustee or other representative of the debt security holders; and</p> <p>13.22.2. The main terms of the document governing such trustee-ship or representation and in particular the conditions under which such trustee or representative may be replaced.</p>
13.23.	A summary of clauses subordinating the loan to other debts of the issuer already contracted or to be contracted.
13.24.	A statement of the legislation under which the debt securities have been created and the courts competent in the event of litigation.
13.25.	A statement whether the debt securities are in registered or certificate form or where dematerialised a statement of account to be issued.
13.26.	Details of any arrangements for transfer of the securities and any restrictions on the free transferability of the debt securities.
13.27.	Other securities exchanges (if any) where listing is being or will be sought.
13.28.	<p>13.28.1. The names, addresses and descriptions of the persons underwriting or guaranteeing the issue and, where the underwriter is a company, the description must include:</p> <p>13.28.1.1. the place and date of incorporation and registered number of the issuer;</p> <p>13.28.1.2. the names of the directors of the company;</p> <p>13.28.1.3. the name of the secretary of the company;</p> <p>13.28.1.4. the bankers to the company where applicable; and</p> <p>13.28.1.5. the authorised and issued share capital of the company.</p> <p>13.28.2. Where the issue is fully or partially guaranteed, the guarantor shall assume the responsibility and redemption obligation under the issue and in that regard, shall satisfy the Authority of its financial capacity to guarantee the issue.</p> <p>13.28.3. Where the guarantor is a bank or an insurance company licensed to operate in Kenya, the consent of the Central Bank of Kenya or the Commissioner of Insurance, as the case may be, will be required.</p>

	13.28.4. Where not all of the issue is underwritten or guaranteed, a statement of the portion not covered shall be made.
13.29.	If a public or private offer or placing has been or is being made simultaneously on the markets of two or more countries and if a tranche has been or is being reserved for certain of these, details of any such tranche.
13.30.	The names of the securities exchanges (if any) on which debt securities of the same class are already listed.
13.31.	If debt securities of the same class have not yet been listed but are dealt in on one or more other regulated, regularly operating, recognised, open markets, an indication of such markets.
13.32.	<p>If an issue is being effected at the same time as listing or has been effected within the three months preceding such listing the following information must be given:</p> <p>13.32.1. except in the case of continuous debt security issues, the period during which the issue or offer remained open or will remain open and any possibility of early closure.</p> <p>13.32.2. the methods of and time limits for delivery of the securities and a statement as to whether temporary documents of title have been or will be issued.</p> <p>13.32.3. the names of the receiving agents.</p> <p>13.32.4. a statement, where necessary, that the subscriptions may be reduced and a statement of the relative facts where it is the intention, in the event of over subscription, to extend a preference on allotment/allocation to any particular company or group such as employees and pension funds.</p> <p>13.32.5. except in the case of continuous debt security issues, the estimated net proceeds of the loan. If the securities offered is more than the amount of the minimum subscription referred to in paragraph 13.33, the reason for the difference between the securities offered and the said minimum subscription.</p> <p>13.32.6. the purpose of the issue and intended application of its proceeds.</p>
13.33.	<p>The minimum amount which, in the opinion of the directors, must be raised by the issue of the securities in order to provide the sums, or, if any part thereof is to be order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sums required to be provided, in respect of each of the following matters:</p> <p>13.33.1. the purchase price of any property, purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;</p> <p>13.33.2. any preliminary expenses payable by the issuer, and any commission payable to any person in consideration for his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for or of his underwriting or guaranteeing any securities of the issuer;</p>

	<p>13.33.3. the repayment of any moneys borrowed in respect of any of the foregoing matters;</p> <p>13.33.4. working capital, stating the specific purposes for which it is to be used and the estimated amount required for each such purpose;</p> <p>13.33.5. any other material expenditure, stating the nature and purposes thereof and the estimated amount in each case;</p> <p>13.33.6. the amounts to be provided in respect of the matters from 13.33.1 to 13.33.5 otherwise than out of the proceeds of the issue, and the sources from which those amounts are to be provided;</p> <p>13.33.7. if the proceeds are being used directly or indirectly to acquire assets, other than in the ordinary course of business, briefly describe the assets and their cost. If the assets will be acquired from affiliates of the issuer or associates, disclose the person from whom they will be acquired and how the cost to the issuer will be determined.</p>
13.34.	A summary of the rights conferred upon the holders of the debt securities and particulars of the security, if any.
13.35.	Where debt securities are issued by way of conversion or replacement of debt securities previously issued, a statement of all material differences between the security for the new and the old debt securities. The security for the new debt securities. If appropriate, a statement that the security for the new debt securities is identical with all securities for the old debt securities.
13.36.	Particulars of the profits cover for interest (if fixed), and of the net tangible assets.
13.37.	<p>Where the debt securities for which application is being made are offered by way of rights or open offer to the holders of an existing listed security, the following information must be given:</p> <p>13.37.1. the pro rata entitlement;</p> <p>13.37.2. the last date on which transfers were or will be accepted for registration for participation in the issue;</p> <p>13.37.3. how the securities rank for interest;</p> <p>13.37.4. the nature of the document of title and its proposed date of issue;</p> <p>13.37.5. in the case of a rights issue or open offer, how debt securities not taken up will be dealt with and the time in which the offer may be accepted;</p> <p>13.37.6. a statement pointing out possible tax implications for non-residents.</p>
13.38.	In respect of convertible debt securities, information concerning the nature of the shares offered by way of conversion, exchange or for subscription and the rights attaching thereto.

13.39	In respect of convertible debt securities, the conditions of and procedures for conversion, exchange or subscription and details of the circumstances in which they may be amended
13.40	Where the debt securities for which application is being made are debt securities of a class which is already listed, being offered by way of rights or open offer, a table of market values for the securities of the class to which the rights issue or offer relates for the first dealing day in each of the six months before the date of the particulars, for the last dealing day before the announcement of the rights issue or offer and (if different) the latest practicable date prior to publication of the particulars.
13.41	Where an issuer seeks to raise additional capital amounting to twenty percent or more of the aggregate value of its listed fixed income securities such issuer shall obtain prior approval of the holders of such listed fixed income securities and the Authority.
13.42	Provide signed copies of all agreements between the issuer and transaction advisory team before the offer opening date.

TWELFTH SCHEDULE

(r. 16)

DISCLOSURE AND OTHER REQUIREMENTS FOR ADDITIONAL ISSUES

(Rights, scrip dividend, capitalization issues and open offers)

PART A: DISCLOSURE AND OTHER REQUIREMENTS FOR ADDITIONAL ISSUES FOR ISSUERS LISTED IN THE MAIN INVESTMENT MARKET SEGMENT

1.	Issue of shares
1.1.	An issuer of securities to the public must ensure equality of treatment for all holders of such securities of the same class in respect of all rights attaching to such securities.
1.2.	Subject to the provisions of Part XIV of the Companies Act, 2015, an issuer proposing to issue shares for cash may first offer those shares to existing shareholders in proportion to their existing holdings. Only to the extent that the securities are not taken up by such persons under the offer, may they then be issued for cash to others or otherwise than in the proportion to their existing holdings.
1.3.	An issuer shall not issue shares which confer a controlling interest without prior approval of shareholders in a general meeting through a special resolution.
1.4.	An issuer intending to make an additional issue should make an announcement within twenty- four hours from the board's resolution to recommend the additional issue to the shareholders and such announcement shall state that the issue is subject to the approval of the shareholders and the Authority.
1.5.	<p>1.5.1. Where an issuer obtains a general approval from the shareholders to issue shares for purposes of acquisition and authorizes directors to issue such shares for that purpose, the directors shall disclose to the shareholders and the general public any acquisition involving such shares in which an existing shareholder has an interest, or where the shareholding percentage or structure of the existing shareholding will change as a result of such acquisition.</p> <p>1.5.2. Where as a result of such acquisition a shareholder by virtue of shares arising out of the acquisition is in a position to exercise control of an issuer, such acquisition shall only be carried out with a special resolution of the shareholders in general meeting notwithstanding the existence of the general provisions.</p>
2.	Authorisation of Issue
2.1.	Subject always to the provisions of Part XIV of the Companies Act, 2015, where an issuer which has listed shares has received notification from its parent company that the parent company proposes to participate in future issues of shares by the issuer not made to existing shareholders in proportion to their existing holdings (in order to maintain its percentage shareholding in the issuer), such participation shall first be authorised by the shareholders in a general meeting by special resolution and such authority

	shall be valid for a period of twelve months unless renewed by shareholders at another general meeting.
2.2.	An issuer must obtain the consent of shareholders before any subsidiary company of the issuer makes any issue of shares for cash or transfer of existing shares of such subsidiary company so as to materially dilute the issuer's percentage interest in the shares of that subsidiary company. For the purposes of this paragraph and paragraph 2.1, a subsidiary company which represents twenty-five per cent or more of the aggregate of the share capital and reserves or profits (after deducting all charges except taxation and excluding extraordinary items) of the group will be regarded as a major subsidiary company.
2.3.	The obligation to obtain the consent of shareholders set out in paragraph 2.2 does not apply if the subsidiary company is itself listed and so must comply with paragraph 2.1. In such a case, the issuer must ensure that its equity interest in the subsidiary company is not materially diluted through any new cash issue or transfer of shares by such subsidiary company. In the case of a rights issue, if the issuer does not propose to take up its rights, an arrangement must be made for the rights to be offered to its shareholders so that they can avoid a material dilution in their percentage equity interest.
3.	Renunciation and other entitlements
3.1.	In a rights issue or open offer, an issuer need not comply with paragraph 2.3 with respect to: <ul style="list-style-type: none"> 3.1.1. securities representing fractional entitlements; or 3.1.2. securities which the directors of the issuer consider necessary or expedient to exclude from the offer on account of either legal problems under the laws of any territory, or the requirements of a regulatory body, provided that the Authority's consent is obtained.
3.2.	In relation to a rights issue in which shareholders are given the right to participate in proportion to the amount of existing shares, such rights shall allow for renunciation in part or in whole in favour of a third party at the option of the entitled shareholders.
3.3.	In relation to rights issues and an open offer, the issuer shall fix the closing date for the receipt of applications for, and acceptance of the new shares not later than thirty days after the books closing date.
3.4.	An issuer shall issue to the persons entitled to a rights issue within ten days after a books closing date: <ul style="list-style-type: none"> 3.4.1. letter of entitlement of rights; and 3.4.2. provisional letter of allotment incorporating: <ul style="list-style-type: none"> 3.4.2.1. form of acceptance; 3.4.2.2. request for splits; 3.4.2.3. form of renunciation; and 3.4.2.4. excess shares application form.

3.5.	<p>Except where a director is also a shareholder entitled to the rights provided in this Schedule, no director of an issuer shall be given preferential allotment directly or indirectly in an issue of shares or other securities with rights of conversion to shares unless shareholders in general meeting have approved of the specific allotment to be made to such director. The notice of meeting shall state:</p> <p>3.5.1. the number of securities to be so allotted;</p> <p>3.5.2. the precise terms and conditions of the issue; and</p> <p>3.5.3. that such directors shall abstain from exercising any voting rights.</p>
3.6.	When shareholders are offered a specific entitlement in a new issue of shares, such entitlement must be on pro rata basis with no restrictions placed on the number of shares to be held before entitlements accrue.
3.7.	Once the basis of the entitlement is declared the issuer shall not make any subsequent alterations to such entitlements.
4.	Lodging of the application
4.1.	<p>4.1.1. Where the shares for which application is being made are offered by way of rights, open offer or otherwise or allotted by way of capitalization of reserves or undistributed profits or scrip dividend to the existing shareholders, the application shall be lodged with the Authority at least ten days prior to the date of book closure.</p> <p>4.1.2. The Authority shall be at liberty to impose such conditions as it deems fit for the protection of existing shareholders and potential investors in approving the application.</p>
5.	The application formalities
5.1.	<p>5.1.1. The issuer's application shall state:</p> <p>5.1.1.1. Information on the issuer, namely:</p> <p>5.1.1.1.1. the applicant's name (both legal and trading name, if any); and</p> <p>5.1.1.1.2. date, place and nature of incorporation;</p> <p>5.1.1.1.3. the legislation under which the issuer operates and the legal form which it has adopted under that legislation;</p> <p>5.1.1.1.4. A description of the issuer's principal objects and activities, stating the main category of products sold or services performed, and the degree of any government protection and of any investment encouragement law affecting the business ;</p> <p>5.1.1.1.5. registered office and, if different, head office of the issuer;</p>

	<p>5.1.1.1.6. the website, and any other digital platform of the issuer (with a disclaimer that the information on the website and any other digital platform does not form part of the prospectus unless that information is incorporated by reference into the prospectus);</p> <p>5.1.1.2. the dates of resolutions passed by its board of directors and shareholders (where already obtained) furnish certified copies as required under the Companies Act, laws of Kenya authorizing the issue of new shares;</p> <p>5.1.1.3. information on any governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the issuer is aware), during a period covering at least the previous 12 months which may have, or have had in the recent past significant effects on the issuer or group's financial position or profitability, or provide an appropriate negative statement;</p> <p>5.1.1.4. designation or title of each class of shares proposed for additional listing and its amount, par value and whether fully paid;</p> <p>5.1.1.5. the number of additional shares to be listed;</p> <p>5.1.1.6. the effective date on which the additional shares are to be fully qualified for admission to trading;</p> <p>5.1.1.7. the exchange at which the applicant's shares are listed;</p> <p>5.1.1.8. purpose of issuance;</p> <p>5.1.1.9. the names of the persons responsible for the application;</p> <p>5.1.1.10. number of shares authorized by the articles and number of shares issued and fully paid;</p> <p>5.1.1.11. where applicable, the number of un-issued shares of each class of security reserved for issuance for any purpose, and purpose for which they are reserved;</p> <p>5.1.1.12. a brief description of the rights attached to the shares with regard to voting, dividends, liquidation proceeds, pre-emption in future capital increases or any other special circumstances;</p> <p>5.1.1.13. the date with effect from which the additional shares will qualify for dividend, whether dividend will be paid in full, and the circumstances relevant to the time limitation on the right to dividend;</p>
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	<p>5.1.1.14. the nature of the document of title (if any) and its proposed date of issue;</p> <p>5.1.1.15. how any fractions will be treated;</p> <p>5.1.1.16. details regarding the proposed listing of the letters of allocation, the subsequent listing of the new shares and the amount payable in respect of listing fees;</p> <p>5.1.1.17. details regarding the letters of allocation such as:</p> <p>5.1.1.17.1 acceptance;</p> <p>5.1.1.17.2 renunciation;</p> <p>5.1.1.17.3 splitting; and</p> <p>5.1.1.17.4 mode of payment.</p> <p>5.1.1.18. in the case of a rights or scrip dividend issue or open offer:</p> <p>5.1.1.18.1 how shares not taken up will be dealt with and the time in which the offer may be accepted;</p> <p>5.1.1.18.2 whether or not the documents of title (if any) are renounceable; and</p> <p>5.1.1.18.3 a statement in bold and uppercase, on the front page, drawing shareholders' attention to the type of election to be made (to indicate whether shareholders will receive either cash or scrip if they fail to make the election);</p> <p>5.1.1.19. where the shares for which application is being made are shares of a class which is already listed, being offered by way of rights or open offer, a table of high and low traded market values for the securities of the class to which the rights issue or offer relates for the first dealing day in each of the six months before the date of the information memorandum and for the last dealing day before the announcement of the rights issue or offer and (if different) the latest practicable date prior to publication of the information memorandum;</p> <p>5.1.1.20. a statement pointing out possible tax implications for non-residents.</p> <p>5.1.2. The issuer's application shall be endorsed with the following declaration under the signature of two directors or one director and the secretary:</p> <p>"We hereby declare that all information stated in this application and the statements contained in the report are correct, and neither the board of directors' minutes, audit reports or any other internal documents contain information which could distort the interpretation of the report".</p>
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	5.1.3. The issuer's application shall, where applicable, be accompanied by a declaration by those responsible for certain parts of the information memorandum that, to the best of their knowledge, the information contained in those parts of the information memorandum for which they are responsible is in accordance with the facts and that those parts of the information memorandum make no omission likely to affect their import.
5.2.	An issuer shall not close its register to determine shareholders' entitlement to participate in a rights, scrip dividend or capitalization issue or open offer until one calendar week after the information memorandum to shareholders has been approved by the Authority.
5.3.	All schemes involving the issue of shares or other securities (including options) to employees shall comply with the registration and approval procedures for employee share ownership schemes prescribed in the Public Offers, Listing and Disclosures Regulations, 20223 and the Act.
5.4.	<p>The issuer shall in the case of rights or scrip dividend issue:</p> <p>5.4.1. show a timetable in respect of the following events-</p> <p>5.4.1.1. books closure date to determine rights entitlement;</p> <p>5.4.1.2. last day for splitting;</p> <p>5.4.1.3. last day for exercise or rights;</p> <p>5.4.1.4. last day for renunciation of rights;</p> <p>5.4.1.5. last day for application for additional shares; and</p> <p>5.4.2. state:</p> <p>5.4.2.1. the rights new issue ratio, date and basis of determining the price of new issue shares;</p> <p>5.4.2.2. the expected net proceeds and its application;</p> <p>5.4.2.3. if any underwriting agreement exists, a copy of such agreement shall be submitted to the Authority;</p> <p>5.4.2.4. the names and addresses of the auditors who have audited the accounts of the issuer during the preceding three years; and</p> <p>5.4.2.5. the names, addresses, qualifications and material interest, if any in the issuer, of the stockbrokers sponsoring the application for admission to listing.</p>
5.5.	A listed company must ensure that a rights issue or open offer remains open for acceptance for at least ten business days. For the purposes of calculating the period of ten business days, the first business day is the date on which the offer is first open for acceptance.
5.6.	An application by an issuer for a rights issue or any additional issue pursuant to this Schedule shall be accompanied by the following:

	<p>5.6.1. information about the management of the applicant;</p> <p>5.6.2. a statement on any significant development affecting the applicant, financial position of the applicant or its business since the latest annual report of the applicant for which either audited financial statements or interim financial information have been published, or provide an appropriate negative statement;</p> <p>5.6.3. if the applicant's securities have been suspended, provide details of the same;</p> <p>5.6.4. if the shares to be listed are to be issued in connection with the acquisition of a controlling interest in, or of, all the assets subject to a liability of another company and that company's profit and loss accounts to the date of the last balance sheet supplemented by the latest available interim statements;</p> <p>5.6.5. one copy of each contract, plan or agreement pursuant to which the shares applied are to be issued;</p> <p>5.6.6. if the shares applied for are to be issued in acquisition of an equity interest in another company, or properties or other assets, one copy of any engineering, geological or appraisal report, which may have been obtained in connection with the proposed acquisition;</p> <p>5.6.7. one copy each of all letters of approval from the relevant government authorities; and</p> <p>5.6.8. a statement or estimate of the cost involved in the application divided into:</p> <p>5.6.8.1. brokerage expenses;</p> <p>5.6.8.2. approval and listing fees;</p> <p>5.6.8.3. printing;</p> <p>5.6.8.4. advertising;</p> <p>5.6.8.5. professional fees (legal, auditors, valuers); and</p> <p>5.6.8.6. other costs.</p>
5.7.	<p>The issuer shall state in tabular form, for each issue or series of funded or long-term debt of the issuer and its subsidiary companies, the following-</p> <p>5.7.1. full title (including interest rate and maturity date);</p> <p>5.7.2. amount authorized by the debt instrument;</p> <p>5.7.3. amount issued to-date;</p> <p>5.7.4. amount redeemed;</p> <p>5.7.5. amount outstanding;</p> <p>5.7.6. issue price;</p> <p>5.7.7. date of payment of interest; and</p> <p>5.7.8. date and terms of redemption.</p>

5.8.	<p>The issuer shall, in the case of acquisitions, state-</p> <p>5.8.1. whether the shares applied for are to be issued as a total or part of the consideration for the acquisition of-</p> <p>5.8.1.1. a controlling interest in, or the major part of the business and assets of, another company; or</p> <p>5.8.1.2. specific assets or properties;</p> <p>5.8.2. names of parties involved in the acquisition and the date of contract entered into;</p> <p>5.8.3. the transaction, and the assets or business to be acquired, in sufficient detail to indicate the relative value thereof in relation to the consideration to be paid;</p> <p>5.8.4. the principle followed and factors considered in determining the consideration to be paid in the acquisition, and the persons making the determination and their relationship to the applicant;</p> <p>5.8.5. why the management of the issuer regards the acquisition as a favourable one from its point of view; and</p> <p>5.8.6. whether or not any officer, director or major shareholder of the issuer (or a related company of the issuer) has any direct or indirect beneficial interest in the assets to be acquired or the consideration to be paid and, if such interest does exist, describe it.</p>
5.9.	<p>If the controlling interest in, or the major part of the business and assets of, another company is being acquired, the issuer shall state briefly the history and business of that other company and furnish the audited financial statements of that other company for the three years (if applicable) immediately preceding the proposed acquisition complying with International Financial Reporting Standards .</p>
5.10.	<p>If any engineering, geological or appraisal reports, were obtained in connection with the proposed acquisition the issuer shall include appropriate excerpts from such reports.</p>
5.11.	<p>If the shares applied for are in respect of bonus shares capitalized from reserves the issuer shall-</p> <p>5.11.1. identify the reserves from which the bonus shares are to be capitalised;</p> <p>5.11.2. show a three-year schedule of the movements in the relevant reserve accounts; and</p> <p>5.11.3. where any of the reserves were created following a revaluation of the assets of the issuer, submit a copy of the relevant appraisal report, and a certificate from the issuer's auditors that the reserves are sufficient to cover the capitalization.</p>

5.12.	<p>The issuer shall:</p> <p>5.12.1. make a declaration that the audited annual accounts of the issuer, or in the case of a group, the consolidated audited accounts of the issuer and its subsidiary undertakings for each of the five (5) financial years preceding the application have been audited in compliance with the International Auditing Standards (ISA);</p> <p>5.12.2. furnish a statement from the issuer's auditor stating all circumstances regarding the additional listing known to the auditor, which could influence the evaluation by investors of the assets, liabilities, financial position, results and prospects are included in the report;</p> <p>5.12.3. make a statement that the approval in-principle granted by the Authority is not to be taken as an indication of the merits of the issue, the issuer, its subsidiaries or the securities;</p> <p>5.12.4. make a statement that the Authority assumes no responsibility for the accuracy of any of the statements made, reports contained and opinions expressed in any of the documents relating to the issue;</p> <p>5.12.5. provide signed copies of all agreements between them and the transaction advisory team before the offer opening date.</p>
5.13.	Where an issuer considers it necessary to make underwriting arrangements for the rights issue, details of such underwriting arrangements shall be subject to the approval of the Authority.
5.14.	Disclosure of underwriting agreement, costs, details of the underwriter and relationship (if any) of the underwriter to the issuer or any of its directors shall be made.
5.15.	All documents relating to the additional issues shall be in English and shall be accessible on the approved electronic platforms and website and any other digital platform of the Issuer.

**PART B: SME MARKET SEGMENT DISCLOSURE REQUIREMENTS FOR
ADDITIONAL ISSUES**

(Rights, scrip dividend, capitalization issues and open offers.)

Part A of this Schedule 12 (DISCLOSURE AND OTHER REQUIREMENTS FOR ADDITIONAL ISSUES FOR ISSUERS LISTED IN THE MAIN INVESTMENT MARKET SEGMENT) shall apply to additional issues (rights, scrip dividend, capitalization and open offers) by issuers listed in the SME Market Segment except as otherwise modified in this Part B:

1. Any mention of the Authority in paragraphs 1.4, 3.1.2, 4.1, 5.2, 5.4.2, 5.12.3, 5.12.4, and 5.13 of Part A shall be deemed to refer to the Securities Exchange with respect to the SME Market Segment.
2. The following provisions shall apply in place of the provisions of paragraph 5.12.1. of Part A of this Schedule 4:

The issuer shall make a declaration that:

"The audited annual accounts of the issuer, or in the case of a group, the consolidated audited accounts of the issuer and its subsidiary undertakings for each of the three (3) financial years preceding the application have been audited in compliance with the International Auditing Standards) including, in the case of a company incorporated in Kenya, all notes, reports or information required by the Companies Act, 2015."

THIRTEENTH SCHEDULE

(r. 53)

CONTINUING OBLIGATIONS

1.	General Continuing Obligations
1.1.	<p>1.1.1. An issuer must announce as soon as reasonably practicable but, in any event, not later than the end of the next working day, any information known to the issuer concerning it or any of its subsidiaries which:</p> <p>1.1.1.1. is necessary to enable its members, holders of its securities, the public, the Securities Exchange and the Authority appraise the financial position and the state of corporate governance of the issuer and its subsidiaries;</p> <p>1.1.1.2. is necessary to avoid the establishment of a false market in its securities; or</p> <p>1.1.1.3. might be reasonably expected to materially affect the price or value of its securities.</p> <p>1.1.2. Information to be disclosed shall include but not be restricted to any major development in the issuer's (or any of its subsidiaries) sphere of activity or expectation of performance which is not public knowledge which may:</p> <p>1.1.2.1. by virtue of the effect of such development on its assets and liabilities or financial position or on the general course of its business, lead to substantial movement in the price of its securities; or</p> <p>1.1.2.2. in the case of an issuer of debt securities, by virtue of the effect of those developments on its assets and liabilities or financial position or on the general course of its business, lead to substantial movement in the price of its securities, or significantly affect its ability to meet its commitments.</p> <p>1.1.3. Paragraph 1.1.2 does not apply to:</p> <p>1.1.3.1. Information which it would be a breach of law to disclose;</p> <p>1.1.3.2. information that is a trade secret.</p> <p>1.1.4. The issuer is obligated to disclose information exempted under 1.1.2 to the Authority.</p>
1.2.	<p>An issuer may give information in strict confidence to its advisers and to persons with whom it is negotiating with a view to effecting a transaction or raising finance. These persons may include prospective underwriters of an issue of securities, providers of funds or loans or the placers of the balance of a rights issue not taken up by shareholders. In such cases, the issuer must</p>

	advise the recipients of such information, in writing, that it is confidential. The issuer shall also ensure that appropriate non-disclosure agreements are executed in such cases.
1.3.	Where the information relates to a proposal by the issuer which is subject to negotiations with employees or trade union representatives, the issuer may defer publication of the information until such time as an agreement has been reached as to the implementation of the proposal.
1.4.	Where it is proposed to announce at any meeting of holders of an issuers' listed securities, information which might lead to substantial movement in their price, arrangements must be made for publication of that information, in accordance with the provisions of Part XIV of the Regulations to the Securities Exchange and the public so that the announcement at the meeting is made no earlier than the time at which the information is published to the public and forwarded to the Authority.
1.5.	An issuer must publish, by way of a cautionary announcement, information which could lead to material movements in the prevailing price of its securities if at any time the necessary degree of confidentiality cannot be maintained, or that confidentiality has or may have been breached.
1.6.	An issuer whose securities are listed on more than one securities exchange must ensure that equivalent information is made available at the same time to the market at all the securities exchanges.
2.	Disclosure of periodic financial information on dividends and interest
2.1.	<p>Announcements of dividends, including a bonus or scrip dividend, or interest payments on issued securities should be notified to the securities exchange, the Authority and the holders of the relevant security within twenty-four hours following the Board's resolution in the case of an interim dividend or recommendation in the case of a final dividend, as well as bonus or scrip dividend, by means of a press public announcement. The resolution must be made at least twenty-one days prior to the closing date of the register and shall contain at least the following information:</p> <ul style="list-style-type: none"> 2.1.1. the closing date for determination of entitlements; 2.1.2. the date on which the dividend or interest will be paid; and 2.1.3. the cash amount that will be paid for the dividend or interest. <p>Where the shareholders at the annual general meeting do not approve a dividend recommended by the Board, this fact shall be announced by the Board by means of a notice within twenty-four hours following the annual general meeting.</p>
2.2.	Dividends declared by an issuer shall be paid out within ninety days of the date of the announcement in case of interim dividends or ninety days of approval of the shareholders in the case of the final dividend.
2.3.	Notification of non-declaration of dividends or payment of interest must be published either in the interim or quarterly report, the annual financial statements or by way of a public announcement.
2.4.	An issuer declaring a final dividend prior to the publication of the annual financial statements or quarterly report must ensure that the dividend notice

	given to shareholders contains a statement of the ascertained or estimated consolidated profits before taxation of the issuer and its subsidiaries for the year, and also particulars of any amounts appropriated from accumulated profits, revenue and reserves of past years, or other special sources subject to the approval of the Authority, to provide wholly or partly for the dividend.
2.5.	The board of directors of the issuer shall recommend to the shareholders a books closure date and the reason thereof, which shall be at least twenty-one days after the date of notification to the securities exchange at which the securities are listed, in the case of an interim dividend, and in the case of a final dividend, the book closure date shall be subject to the approval of the shareholders at the annual general meeting.
3.	Interim and Quarterly Reports
3.1.	<p>In this part the terms:</p> <p>"interim financial statements" means half year financial statements;</p> <p>"annual financial statements" means year end audited financial statements;</p> <p>"publish" means making available the information on official website, in a newspaper of national circulation or delivers to the respective electronic mail addresses of the exchange or in such other manner as may be prescribed by the Authority.</p> <p>"quarterly financial statements" means a financial statement, other than an interim or audited financial statement, covering a period of three months, issued in the course of a financial year on a best practice basis.</p> <p>3.1.1. All interim, quarterly and annual reports shall be prepared in accordance with relevant provisions of the International Financial Reporting Standards (IFRS).</p> <p>3.1.2. All issuers who have adopted a quarterly reporting practice shall except in the case of a report issued pursuant to paragraph 3.12, continue to issue reports on a quarterly basis in order to maintain consistency.</p>
3.2.	<p>Every issuer of securities to the public approved by the Authority whether or not such securities are listed, shall prepare and publish an interim report within two months of the respective interim reporting date. An interim financial report shall include at a minimum the following components:</p> <p>3.2.1. condensed statement of financial position;</p> <p>3.2.2. condensed income statement and statement of comprehensive income;</p> <p>3.2.3. condensed statement showing either all changes in equity; or changes in equity other than those arising from capital transactions with owners and distributions to owners, statement of recognised gains and losses;</p>

	<p>3.2.4. condensed cash flow statement; and</p> <p>3.2.5. selected explanatory notes.</p>
3.3.	<p>If an issuer publishes a set of condensed financial statements in its interim financial report, those condensed statements should include, at a minimum, each of the headings and subtotals that were included in its most recent annual financial statements and the selected explanatory notes. Additional line items or notes should be included if their omission would make the condensed interim financial statements misleading.</p>
3.4.	<p>Basic and diluted earnings per share should be presented on the face of an income statement, complete or condensed, for an interim period.</p>
3.5.	<p>An issuer should include the following information, as a minimum, in the notes to its interim financial statements, if material and if not disclosed elsewhere in the interim financial report:</p> <ul style="list-style-type: none"> 3.5.1. a statement that the same accounting policies and methods of computation are followed in the interim financial statements as compared with the most recent annual financial statements or, if those policies or methods have been changed, a description of the nature and effect of the change; 3.5.2. explanatory comments about the seasonality or cyclicity of interim operations; 3.5.3. the nature and amount of items affecting assets, liabilities, equity, net income, or cash flows that are unusual because of their nature, size, or incidence; and 3.5.4. the nature and amount of changes in estimates of amounts reported. <p>This information should be reported on a financial year-to-date basis. However, the issuer should also disclose any events or transactions that are material to an understanding of the current interim period.</p>
3.6.	<p>Interim reports should include interim financial statements, condensed or complete, for periods as follows:</p> <ul style="list-style-type: none"> 3.6.1. statement of financial position as at the end of the current interim period and a comparative statement of financial position as at the end of the immediately preceding financial year; 3.6.2. income statements for the current interim period and cumulatively for the current financial year to date, with comparative income statements for the comparable interim periods (current and year-to-date) of the immediately preceding financial year; 3.6.3. a statement showing changes in equity cumulatively for the current financial year to date, with a comparative statement for the comparable year-to-date period of the immediately preceding financial year; and

	3.6.4. cash flow statement cumulatively for the current financial year to date, with a comparative statement for the comparable year-to-date period of the immediately preceding financial year.
3.7.	If an estimate of an amount reported in an interim period is changed significantly during the financial year and a separate financial report is not published for that interim period, the nature and amount of that change in estimate should be disclosed in a note to the annual financial statements for that financial year.
3.8.	An issuer should apply the same accounting policies in its interim financial statements as are applied in its annual financial statements, except for accounting policy changes made after the date of the most recent annual financial statements that are to be reflected in the next annual financial statements. However, the frequency of an issuer's reporting, annual, interim or quarterly, should not affect the measurement of its annual results. To achieve that objective, measurements for interim reporting purposes should be made on a year-to-date basis.
3.9.	A change in accounting policy, other than one for which the transition is specified by a new IFRS, should be reflected by: <ul style="list-style-type: none"> 3.9.1. restating the financial statements of prior interim periods of the current financial year and the comparable interim periods of prior financial years, if the issuer follows the benchmark treatment under the relevant IFRS; or 3.9.2. restating the financial statements of prior interim periods of the current financial year, if the issuer follows the allowed alternative treatment under the relevant IFRS. In this case, comparable interim periods of prior financial years are not restated.
3.10.	Any announcement made by the issuer in respect of: <ul style="list-style-type: none"> 3.10.1. a dividend; 3.10.2. a capitalization or rights issue; 3.10.3. the closing of the books; 3.10.4. a capital return; or 3.10.5. sales or turnover, shall be issued so as to coincide with the release of the annual, interim or quarterly financial statements.
3.11.	If an issuer is required to prepare and publish interim and quarterly statements pursuant to this Schedule, the issuer shall in addition ensure that the statements— <ul style="list-style-type: none"> 3.11.1. are made available on its website; and 3.11.2. remain so available on its website until the quarterly and interim statements for the next financial year are made available.

3.12.	Arrangers of fixed income securities shall submit quarterly returns in the prescribed format by the 10th of the month following the end of the quarter.
4.	Audited Financial Statements
4.1.	Every issuer of securities to the public whether listed or not shall prepare and publish an annual report containing audited annual financial statements within four months of the close of its financial year.
4.2.	<p>A complete set of financial statements includes the following components:</p> <ul style="list-style-type: none"> 4.2.1. statement of financial position; 4.2.2. income statement and statement of comprehensive income; 4.2.3. a statement showing either: all changes in equity; or changes in equity other than those arising from capital transactions with owners and distributions to owners; 4.2.4. cash flow statement; and 4.2.5. accounting policies and explanatory notes including the auditor's opinion and a summary of key audit matters raised by the auditor.
4.3.	<p>Directors should select and apply accounting policies so that the financial statements comply with all the requirements of the applicable IFRS, and interpretation of the IFRS Interpretations Committee.</p> <p>Where there is no specific requirement, directors should develop policies to ensure that the financial statements provide information that is relevant to the decision-making needs of users and reliable in that they:</p> <ul style="list-style-type: none"> 4.3.1.1. represent accurately the results and financial position of the issuer; 4.3.1.2. reflect the economic substance of events and transactions and not merely the legal form; 4.3.1.3. are neutral, that is, free from bias; 4.3.1.4. are prudent; and 4.3.1.5. are complete in all material respects.
4.4.	<p>The presentation and classification of items in the financial statements should be retained from one period to the next unless:</p> <ul style="list-style-type: none"> 4.4.1. a significant change in the nature of the operations of the issuer or a review of its financial statement presentation demonstrates that the change will result in a more appropriate presentation of events or transactions; or 4.4.2. a change in presentation is required by an IFRS or an interpretation of the IFRS Interpretations Committee.
4.5.	<p>Each component of the financial statements should be clearly identified.</p> <p>In addition, the following information should be prominently displayed and repeated when it is necessary for a proper understanding of the information presented:</p> <ul style="list-style-type: none"> 4.5.1. the name of the issuer or other means of identification;

	<p>4.5.2. whether the financial statements cover a company or a group;</p> <p>4.5.3. the date of the statement of financial position or the period covered by the financial statements, whichever is appropriate to the related component of the financial statements;</p> <p>4.5.4. the reporting currency; and</p> <p>4.5.5. the level of precision used in the presentation of figures in the financial statements.</p> <p>The period covered by financial statements should be no less than twelve months.</p>
4.6.	<p>As a minimum, the face of the statement of financial position should include line items which present the following amounts:</p> <p>4.6.1. property, plant and equipment;</p> <p>4.6.2. intangible assets;</p> <p>4.6.3. financial assets (excluding amounts shown under 4.6.4, 4.6.6 and 4.6.7);</p> <p>4.6.4. investments accounted for using the equity method;</p> <p>4.6.5. inventories;</p> <p>4.6.6. trade and other receivables;</p> <p>4.6.7. cash and cash equivalents;</p> <p>4.6.8. trade and other payables;</p> <p>4.6.9. tax liabilities and assets as required by the applicable IFRS</p> <p>4.6.10. provisions;</p> <p>4.6.11. non-current interest-bearing liabilities;</p> <p>4.6.12. minority interest;</p> <p>4.6.13. issued capital and reserves; and</p> <p>4.6.14. unclaimed dividends since the adoption of the IFRS.</p>
4.7.	<p>An issuer should disclose the following either on the face of the statement of financial position or in the notes for each Class of Share Capital.</p> <p>4.7.1. the number of shares authorised;</p> <p>4.7.2. the number of shares issued and fully paid, and issued but not fully paid;</p> <p>4.7.3. par value per share, or that the shares have no par value;</p> <p>4.7.4. a reconciliation of the number of shares outstanding at the beginning and at the end of the year;</p> <p>4.7.5. the rights, preference and restrictions attaching to that class including restrictions on the distribution of dividends and the repayment of capital;</p>

	<p>4.7.6. shares of the issuer held by related companies of the issuer and shares reserved for issuance under options and sales contracts, including the terms and amounts;</p> <p>4.7.7. a description of the nature and purpose of each reserve within owner's equity; and</p> <p>4.7.8. when dividends have been proposed but not formally approved for payment, the amount included or not included in liabilities;</p>
4.8.	<p>As a minimum, the face of the income statement should include line items which present the following amounts:</p> <p>4.8.1. Revenue, including its breakdown in the notes section;</p> <p>4.8.2. Expenses including its breakdown in the notes section;</p> <p>4.8.3. The results of operating activities;</p> <p>4.8.4. Finance costs;</p> <p>4.8.5. Share of profits and losses of associates and joint ventures accounted for using the equity method;</p> <p>4.8.6. Tax expense;</p> <p>4.8.7. Profit or loss from ordinary activities;</p> <p>4.8.8. Extraordinary items;</p> <p>4.8.9. Minority interest; and</p> <p>4.8.10. Net profit or loss for the period.</p>
4.9.	<p>An issuer should present, as a separate component of its financial statements, a statement showing:</p> <p>4.9.1. the net profit or loss for the period;</p> <p>4.9.2. each item of income and expense, gain or loss which, is recognised directly in equity, and the total of these items; and</p> <p>4.9.3. the cumulative effect of changes in accounting policy and the correction of fundamental errors dealt with under the benchmark treatments in the applicable IFRS.</p>
4.10.	<p>In addition, an issuer should present, either within the financial statements or in the notes:</p> <p>4.10.1. capital transactions with owners and distributions to owners;</p> <p>4.10.2. the balance of accumulated profit or loss at the beginning of the period and at the date of the statement of financial position and the movements for the period; and</p> <p>4.10.3. a reconciliation between the carrying amount of each class of equity capital, share premium and each reserve at the beginning and the end of the period, separately disclosing each movement.</p>

4.11.	<p>An issuer should disclose the following if not disclosed elsewhere in information published with the financial statements:</p> <p>4.11.1. the domicile and legal form of the issuer, its country of incorporation and the address of the registered office (or principal place of business, if different from the registered office);</p> <p>4.11.2. a description of the nature of the issuer's operations and its principal activities; and</p> <p>4.11.3. the name of the parent company and the ultimate parent company of the group;</p>
4.12.	<p>Every issuer shall notify the Authority and the securities exchange of its annual results within twenty-four hours following approval by the Board of the issuer for submission to shareholders.</p>
4.13.	<p>Every issuer shall, within six months after the end of each financial year and at least twenty-one calendar days before the date of the annual general meeting, distribute to all shareholders, holders of its debt securities and every person who is entitled to receive notice of general meetings:</p> <p>4.13.1. a notice of the annual general meeting</p> <p>4.13.2. annual report for the relevant financial year; and</p> <p>4.13.3. the auditors report on the issuer's financial statements.</p>
4.14.	<p>An issuer shall ensure that its annual report:</p> <p>4.14.1. is made available on its website; and</p> <p>4.14.2. remains available on the website until the annual financial statement for the next financial year of the issuer is made available in accordance with this section.</p>
4.15.	<p>Where an issuer has subsidiaries, its annual audited accounts shall be prepared in consolidated form in accordance with the Companies Act and the relevant IFRS.</p> <p>There shall be set out as separate items in every issuer's annual report:</p> <p>4.15.1. the amount of turnover and investments and other income excluding extra ordinary items, together with comparative figures for the previous year;</p> <p>4.15.2. a statement of source and application of funds with comparative figures for the previous year;</p> <p>4.15.3. a statement as at the end of the financial year, showing the interest of each director of the issuer in the stated capital of the issuer, its subsidiary or in an associated company, appearing in the register maintained under the provisions of the Companies Act;</p>

	<p>4.15.4. particulars of material contracts involving directors' interests, either still subsisting at the end of the financial year or, if not then subsisting, entered into since the end of the previous financial year,</p> <p>4.15.5. details of insider loans providing:</p> <p>4.15.5.1. the names of the lender and the borrower;</p> <p>4.15.5.2. the relationship between the borrower and the director (if the director is not the borrower);</p> <p>4.15.5.3. the amount of the loan;</p> <p>4.15.5.4. the interest rate;</p> <p>4.15.5.5. the terms as to payment of interest and repayment of principle; and</p> <p>4.15.5.6. the security provided.</p>
4.16.	In respect of land and buildings, whether freehold or leasehold, to show as a note to the accounts, a brief description of each of the major properties together with an indication as to the location of the properties concerned.
4.17.	<p>In the case where a valuation has been conducted on the fixed assets of the issuer or its subsidiaries, a copy of the valuation report shall be made available for inspection at the issuer's registered office.</p> <p>Fixed assets of the issuer must be re-valued as regularly as possible, but in any case, at least once in three years.</p>
4.18.	The issuer shall ensure that independent auditors are appointed at each Annual General Meeting.
5.	Notification Relating to Share Capital
5.1	<p>An issuer must publish and notify the securities exchange and the Authority of the following information relating to its capital:</p> <p><i>Alterations to capital structure</i></p> <p>5.1.1. Any proposed change in its capital structure including the structure of its debt securities.</p> <p><i>New issues of debt securities</i></p> <p>5.1.2. Where a company has debt securities, any new issues of debt securities, and in particular any guarantee or security in respect thereof.</p> <p><i>Changes of rights attaching to Securities</i></p> <p>5.1.3. Any change, in the rights attaching to any class of securities, in loan terms (or in the rate of interest carried by a debt security) or to any securities which are convertible.</p> <p><i>Basis of Allotment</i></p> <p>5.1.4. The basis of allotment of securities offered generally to the public for cash and open offers to shareholders.</p>

	<p><i>Issues affecting conversion right</i></p> <p>5.1.5. The effect, if any, of any issue of further securities on the terms of the exercise of rights under options, and convertible securities.</p> <p><i>Results of New Issue</i></p> <p>5.1.6. The results of any new issue of securities or of a public offering of existing securities within two weeks of the close of the offer period.</p>																												
5.2	<p>The board of every issuer shall develop structures in order to:</p> <p>5.1.7. independently verify and safeguard the integrity of financial reporting; and</p> <p>5.1.8. ensure the truthful and factual presentation of the company's financial position.</p>																												
5.3	<p>The board shall state in the company's annual report its responsibility for preparing the annual report and accounts, which shall include a statement by the auditor on the auditor's reporting responsibilities.</p>																												
6.	Shareholding																												
6.1	<p>An issuer shall at the end of each month, disclose to the securities exchange every person who holds or acquires 3% or more of the issuer's ordinary shares in the case of an issuer listed on the Main Investment Market Segment or 5% or more of the issuer's ordinary shares in case of an issuer listed on the SME Market Segment, and shall publish in its annual report the following information on its shareholding:</p> <p>6.1.1. distribution of shareholders in the following form:</p> <table><tr><th>Shareholding (No. of shares)</th><th>No. of shareholders</th><th>No. of shares held</th><th>% shareholding</th></tr><tr><td>less than 500</td><td></td><td></td><td></td></tr><tr><td>500 – 5,000</td><td></td><td></td><td></td></tr><tr><td>5,001 - 10,000</td><td></td><td></td><td></td></tr><tr><td>10,001 - 100,000</td><td></td><td></td><td></td></tr><tr><td>100,001 - 1,000,000</td><td></td><td></td><td></td></tr><tr><td>above 1,000,000</td><td></td><td></td><td></td></tr></table> <p>6.1.2. names of the ten largest shareholders and the number of shares in which they have an interest as shown in the issuer's register of members;</p> <p>6.1.3. distribution schedule of each class of shares other than ordinary shares, setting out the number of holders in the categories set out in sub paragraph 6.1.1 above;</p> <p>6.1.4. name and address of the company secretary;</p>	Shareholding (No. of shares)	No. of shareholders	No. of shares held	% shareholding	less than 500				500 – 5,000				5,001 - 10,000				10,001 - 100,000				100,001 - 1,000,000				above 1,000,000			
Shareholding (No. of shares)	No. of shareholders	No. of shares held	% shareholding																										
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	<p>6.1.5. address and telephone number of the registered office; and</p> <p>6.1.6. address of each office at which the register of securities is kept.</p>
6.2.	Where an issuer is listed in the SME Market Segment, the disclosure in paragraph 6.1 shall include a report on a consolidated basis of the quantity and characteristics of the company's securities directly or indirectly held by the Controlling Shareholder, and the senior managers, and the report on the evolution of the volume of securities held by them.
6.3.	An issuer shall inform the Authority and the securities exchange in writing without delay if it becomes aware that the proportion of its securities in the hands of the public has fallen below the minimum prescribed in these Regulations.
6.4.	An issuer shall provide the Authority and the securities exchange details of its shareholders which may be required by the Authority or the securities exchange.
6.5.	<p>The Board of an issuer shall:</p> <p>6.5.1. facilitate the effective exercise of the rights of shareholders.</p> <p>6.5.2. ensure there is equitable treatment of all holders of the same class of issued shares or units.</p>
7.	General Meetings and Communication with Shareholders
7.1.	An issuer shall hold its annual general meeting within six months from the end of its financial year.
7.2.	<p>The annual general meeting of shareholders (other than an adjourned meeting) shall be called by a twenty-one (21) day notice in writing while any other general meetings of shareholders shall be called by a fourteen (14) day notice in writing.</p> <p>All notices convening meetings shall specify the place, date, time and agenda of the meeting.</p> <p>If the conventional meeting place is changed, full justification for the change must be given. The place chosen must be convenient to the general body of shareholders.</p>
7.3.	<p>Annual general meetings of shareholders as well as any other general meetings may be held physically or by way of telephonic conference, closed circuit television, video and teleconferencing or other electronic means of audio/ visual communication (hereinafter referred to as a "virtual meet") or a combination of a physical meeting and virtual meeting.</p> <p>The issuer shall put in place reliable and appropriate technology that enables members to participate, speak and vote at the meeting.</p>
7.4.	<p>An issuer shall ensure that all necessary information is made available to enable holders of such securities to exercise their rights. In particular it shall:</p> <p>7.4.1. inform holders of securities of the holding of meetings which they are entitled to attend;</p>

	<p>7.4.2. enable them to exercise their right to vote, where applicable;</p> <p>7.4.3. publish notices or distribute circulars giving information on: the allocation and payment of dividends and interest; the issue of new securities, including arrangements for the allotment, subscription, renunciation, conversion or exchange of the securities; and</p> <p>7.4.4. redemption or repayment of the securities.</p>
7.5.	<p>The notices convening the annual general meeting or any other general meeting of the issuer shall be issued to the shareholders in the manner permitted by the Companies Act, 2015 (in the case of issuers incorporated or registered under the Companies Act, and with respect to any other issuer, in such manner as is required by the law under which they are registered or incorporated, and in accordance with these Regulations.</p> <p>Unless otherwise restricted under the Companies Act, 2015, the notices to shareholders may be sent or published by electronic means.</p>
7.6.	<p>A proxy form must be sent with the notice convening a meeting of holders of listed securities to each person entitled to vote at the meeting, and must comply with all requirements set out in the issuer's articles of association.</p>
7.7.	<p>If a circular is issued to the holders of any particular class of security, the issuer must issue a copy or summary of that circular to the holders of all other listed securities.</p>
7.8.	<p>The issuer must forward to the Authority and securities exchange copies of:</p> <p>7.8.1. all circulars, notices, reports, announcements or other documents at the same time as they are issued; and</p> <p>7.8.2. all resolutions passed by the issuer at any general meeting of holders of listed securities within ten days after the relevant general meeting.</p>
8.	Corporate Governance
8.1.	<p>Every issuer shall comply with the Code of Corporate Governance Practices for Issuers of Securities to the Public, 2015 issued by the Authority and as may be amended from time to time and any other codes as may be prescribed by the Authority for specific issuers or segments.</p>
8.2.	<p>Every issuer shall disclose, in its annual report and maintain in its websites, its corporate governance practices as well as statement of the directors as to whether the issuer is applying the recommended corporate governance practices stipulated in the Code of Corporate Governance Practices for Issuers of Securities to the Public, 2015 issued by the Authority.</p> <p>Provided that where the issuer has not fully applied the recommended corporate governance practices, the directors shall indicate the steps being taken to ensure the application of such practices.</p>
8.3.	<p>Every issuer shall be headed by a board which shall offer strategic guidance, leadership and control of the company.</p>

8.4.	<p>Notwithstanding paragraph (8.3), the board shall:</p> <ul style="list-style-type: none"> 8.4.1. have an appropriate balance of skills, experience, independence and knowledge of the company to enable the board to operate effectively; 8.4.2. have transparent and documented procedures for the appointment of successive boards to ensure smooth operation; 8.4.3. establish separate functions for itself and the management; 8.4.4. establish policies to ensure that directors of the board are independent; 8.4.5. develop a Code of Ethics and Conduct and ensure that the Code is complied with; 8.4.6. establish, periodically review and publicize the board charter on the company's website; 8.4.7. ensure the company complies with all applicable laws and standards; and 8.4.8. be accountable to the company's shareholders.
8.5.	<p>A person offering himself for appointment as a director of the board shall disclose any real, potential or perceived conflict of interest that may undermine the office of director.</p>
8.6.	<p>The board of an issuer shall on an annual basis, evaluate its performance, the performance of its chairperson, the chief executive officer and the company secretary.</p>
8.7.	<p>The board of every issuer shall:</p> <ul style="list-style-type: none"> 8.7.1. establish such committees as it shall deem sufficient to discharge its mandate. The composition and size of such committees shall reflect the scale and complexity of the company's activities; 8.7.2. formulate the terms of reference, duties and authority of each such committee established; 8.7.3. ensure that the committees are constituted with directors who have the necessary skills and expertise to handle the responsibilities allocated to the committees; 8.7.4. appoint the chairpersons of the committees; 8.7.5. determine the procedure and process within which the committees may be allowed to engage independent professional advice at the company's expense; and 8.7.6. review the effectiveness and performance of the committees on an annual basis.

8.8.	At least one third of the members of the nomination committee established by an issuer shall be independent directors.
8.9.	The chairperson of the nomination committee shall be an independent director.
8.10.	<p>The nomination committee shall:</p> <p>8.10.1. recommend to the board, candidates for the office of director to be considered for appointment by shareholders;</p> <p>8.10.2. assess the performance and effectiveness of the directors of the company.</p>
8.11.	At least one third of the members of the audit committee established by an issuer shall be independent directors.
8.12.	The board shall ensure that at least one of the members of the audit committee holds a professional qualification in audit or accounting and be in good standing with the applicable professional body.
8.13.	There shall be public disclosure in respect of any management or business agreements entered into between the issuer and its related companies, which may result in a conflict-of-interest situation.
8.14.	Every person except a corporate director who is a director of a public listed company shall not hold such a position in more than three public listed companies at any one time and in the case where the corporate director has appointed an alternate director, the appointment of such corporate shall be restricted to two public listed companies.
8.15.	An executive director of a public listed company shall not hold such position in more than two public listed companies at any one time.
8.16.	<p>8.16.1. The chairperson of a public listed company shall be a non-executive member of the Board.</p> <p>8.16.2. A chairperson of a public listed company shall not hold such position in more than two public listed companies at any one time.</p> <p>8.16.3. Every public listed company shall have a succession plan for its chairperson, chief executive officer and employees.</p>
8.17.	<p>8.17.1. The qualification and procedure for nomination and appointment of alternate board directors shall be the same as that required in the appointment of a substantive board director.</p> <p>8.17.2. A principal director whether a body corporate or a natural person shall have only one alternate director.</p> <p>8.17.3. A body corporate shall not be nominated as an alternate director.</p>
8.18.	The chief financial officers and persons heading the accounting department of every issuer shall be members of the Institute of Certified Public

	Accountants of Kenya established under the Accountants Act and in good standing.
8.19.	Where the persons referred to in paragraph 8.18 are members of other internationally recognized professional bodies and are yet to register as members of the Institute of Certified Public Accountants of Kenya, such persons shall register as members of the Institute within a period of twelve months from the date of appointment to such position.
8.20.	Where required by any law, the board of every issuer shall be assisted by a company secretary who shall be a member of the Institute of Certified Secretaries of Kenya established under the Certified Public Secretaries of Kenya Act.
8.21.	Every issuer shall establish formal and transparent policies and procedures, which shall be approved by shareholders for: <ul style="list-style-type: none"> 8.21.1. Remuneration; 8.21.2. effective communication with stakeholders; 8.21.3. corporate disclosure policies and procedures; 8.21.4. dispute resolution for internal and external disputes; and 8.21.5. ensuring attraction and retention of board members.
8.22.	The board of an issuer shall: <ul style="list-style-type: none"> 8.22.1. facilitate the effective exercise of the rights of shareholders; 8.22.2. ensure that there is equitable treatment of all holders of the same class of shares; and 8.22.3. ensure that the shareholders appoint independent auditors at each Annual General Meeting.
8.23.	The board of an issuer shall: <ul style="list-style-type: none"> 8.23.1. establish and review on a regular basis, the adequacy and integrity of the company's internal control systems for acquisitions and divestitures and management of information systems including compliance with applicable laws, regulations, rules and guidelines; 8.23.2. set out its responsibility for internal control in the board charter; 8.23.3. ensure the effectiveness of the company's risk management and internal control practices on an annual basis
8.24.	The auditor of a listed company shall be a member of the Institute of Certified Public Accountants of Kenya in good standing and shall comply with the International Standards of Auditing.
8.25.	The Board of an issuer shall protect, enhance and invest in the well-being of the economy, society and the environment.

8.26.	The term of office of the members of the Board (other than the Managing Director/chief executive officer) shall be organized in such a way that they end at different times. No more than one third of the Board members shall retire at the same time.
8.27.	The Board shall comprise a balance of executive and non-executive directors, with a majority of non-executive directors. Independent directors shall be at least one third of the total number of Board members.
8.28.	The members of the Board of an issuer whose securities are listed on the SME Market Segment shall undergo and complete the Directors Training Programme within six (6) months of the listing of the securities of the SME.
8.29.	The Authority may exempt issuers of securities listed in the SME Market Segment from complying with any of the requirements set out in this Schedule.
9.	Employee Share Option or Share Scheme
9.1.	<p>Every issuer shall disclose in its annual report any grant of options or shares to its employees. The disclosure shall provide details of the grant, including the following:</p> <ul style="list-style-type: none"> 9.1.1. date of grant; 9.1.2. exercise price of options granted; 9.1.3. number of options or shares granted; 9.1.4. market price of its securities on the date of grant; 9.1.5. number of options or shares granted to each director and controlling shareholder (and each of their associates), if any; and 9.1.6. validity period of the options.
9.2.	Every listed company shall ensure that the employees share option or share scheme is approved by an ordinary resolution of the shareholders of the listed company in a general meeting before it is adopted.
9.3.	<p>Paragraph 9.2 does not apply in an arrangement where the only participant is an individual whose appointment is being contemplated and the arrangement is established specifically to facilitate, in special or unusual circumstances, the recruitment or retention of the relevant individual.</p> <p>The following information shall be disclosed in the first annual report published by the listed company after the date on which the relevant individual becomes eligible to participate in the arrangement:</p> <ul style="list-style-type: none"> 9.3.1. All of the information listed in paragraph 9.1; 9.3.2. The name of the sole participant; 9.3.3. The date on which the participant first became eligible to participate in the arrangement;

	<p>9.3.4. An explanation of why the circumstances in which the arrangement was established were unusual or special;</p> <p>9.3.5. The conditions to be satisfied under the terms of the arrangement; and</p> <p>9.3.6. The maximum award under the terms of the arrangement or, if there is no maximum, the basis on which awards will be determined.</p>
10.	Notification of Board and Company Secretary changes and their details
10.1.	<p>An issuer shall disclose all material information and make in accordance with the provisions of Part XIV of the Regulations, a public announcement of:</p> <p>10.1.1. the appointment of a new director stating the appointees name, qualifications, relevant experience, other board memberships and whether the position is executive, independent, non-executive or chair and the nature of any specific function or responsibility of the position;</p> <p>10.1.2. The resignation, removal or retirement of a director, unless the director retires by rotation and is reappointed at a general meeting of the listed company's shareholders;</p> <p>10.1.3. Important changes to the role, functions or responsibilities of a director;</p> <p>10.1.4. The effective date of the change of the directors if it is not with immediate effect; and</p> <p>10.1.5. any change of company secretary or auditors of the issuer.</p>
10.2.	If the effective date of any of the board or company secretary change is not yet known, the notification required under the above paragraph 10.1 should state this fact and the listed company should notify the Authority and the Securities Exchange.
10.3.	The public announcement required pursuant to paragraph 10.1 shall disclose any other regulatory requirements that need to be met for the approval of the appointment of its director or company secretary.
11.	Appointment or cessation of service of key personnel
11.1.	An issuer shall disclose all material information and make a public announcement, in accordance with the provisions of Part XIV of the Regulations, of any appointment or cessation of service of key persons such as chief executive officer, chief financial officer, chief operating officer, general manager or other executive officer of equivalent authority of the issuer.
11.2.	The announcement of an appointment or cessation of service of key persons such as director, chief executive officer, chief financial officer, chief operating officer, general manager or other executive officer of equivalent authority shall be made not later than the effective date of the appointment or cessation, as the case may be.

12.	Sale and purchase agreements
12.1.	Where any agreement has been entered into in connection with any acquisition or realization of assets or any transaction outside the ordinary course of business of the issuer or its subsidiaries, a copy each of the relevant agreement must be lodged with the Authority and the securities exchange and be made available for inspection at the issuer's registered office.
13.	Treasury shares
13.1.	<p>13.1.1. Every issuer shall disclose in its annual report any sale, transfer, cancellation or use of treasury shares, stating the following:</p> <p>13.1.1.1. Date of the sale, transfer, cancellation or use;</p> <p>13.1.1.2. Purpose of such sale, transfer, cancellation or use;</p> <p>13.1.1.3. Number of treasury shares sold, transferred, cancelled or used;</p> <p>13.1.1.4. Number of treasury shares before and after such sale, transfer, cancellation or use;</p> <p>13.1.1.5. Percentage of the number of treasury shares against the total number of shares outstanding in a class that is listed before and after such sale, transfer, cancellation or use; and</p> <p>13.1.1.6. Value of the treasury shares if they are used for a sale or transfer, or cancelled.</p>
14.	Miscellaneous Obligations
14.1.	No further securities of the same class as securities already listed shall be issued or allotted to any person or listed without the Authority's approval.
14.2.	Provisions relating to minimum financial resource requirements of an issuer as stipulated in the eligibility requirements shall be maintained for as long as the securities remain in issue or listed.
14.3.	A copy of any contractual arrangement with a controlling shareholder must be made available for inspection by any person at the registered office of the issuer during normal business hours on each business day.
14.4.	An issuer must ensure that appropriate transfer and registration arrangements for its listed securities are made and holders of the listed securities notified.
14.5.	<p>An issuer shall disclose all material information and make a public announcement of:</p> <p>14.5.1. any change of address of the registered office of the issuer or of any office at which the register of the holders of listed securities is kept;</p>

	<p>14.5.2. any change of name of the issuer stating the date on which it has taken effect;</p> <p>14.5.3. any change in its accounting reference date and the new accounting reference date;</p> <p>14.5.4. any proposed significant alteration of the articles of association or other constitutive documents of the issuer;</p> <p>14.5.5. any application filed with a court to liquidate the issuer or any of its subsidiaries, or to place the issuer or any of its subsidiaries under administration or receivership;</p> <p>14.5.6. the appointment or imminent appointment of receiver manager or liquidator of the issuer or any of its subsidiaries;</p> <p>14.5.7. any profit warning, where there is a material discrepancy between the projected profit after tax for the current financial year and profit after tax in the previous financial year; and</p> <p>14.5.8. such other information as the Authority may require to be published.</p> <p>For the purposes of subparagraph 14.5.7, the expression "material discrepancy" in relation to projected profit after tax for a financial year means that such profit after tax is at least twenty-five per cent lower than profit after tax in the previous financial year.</p> <p>Unless otherwise stated, all public announcements which an issuer is required to make under these Regulations shall be made in accordance with the provisions of Part XIV of the Regulations and within twenty-four hours of the happening of the event.</p>
14.6.	<p>An issuer shall obtain approval of shareholders for any:</p> <p>14.6.1. acquisition of shares of another company or any transaction resulting in such other company becoming a subsidiary or related company of the issuer in which the investment of the issuer is of a value exceeding ten percent of the net asset value of the issuer;</p> <p>14.6.2. sale of shares in another company resulting in that company ceasing to be a subsidiary of the issuer where the value of such sale is more than ten percent of the net asset value of the issuer; or</p> <p>14.6.3. otherwise than in the ordinary course of business, disposal of the assets involving twenty-five per cent or more of the value of the total assets of the issuer; and shall make a public announcement of the fact.</p> <p>For purposes of the shareholders approval, an issuer shall issue a circular to obtain approval of shareholders subject to regulation 71.</p>

14.7.	<p>An issuer shall make a disclosure in the annual report, for any:</p> <p>14.7.1. acquisition of shares of another company or any transaction resulting in such other company becoming a subsidiary or related company of the issuer;</p> <p>14.7.2. sale of shares in another company resulting in that company ceasing to be a subsidiary of the issuer; or</p> <p>14.7.3. otherwise than in the ordinary course of business, disposal of assets involving ten per cent or more of the value of the total assets of the issuer; and shall make a public announcement of the fact.</p>
14.8.	<p>The Board of an issuer shall protect, enhance and invest in the well-being of the economy, society and the environment.</p>

FOURTEENTH SCHEDULE

(r. 29(2))

SHORT FORM PROSPECTUS FOR A RESTRICTED PUBLIC OFFER

NO.	REQUIREMENT
1.	<p>Details of Issuer including:</p> <ul style="list-style-type: none"> (a) Name of Issuer including its trading name, if different (b) Date of Incorporation/Registration (c) Details of any licences held by the issuer (d) Summary of description of business of issuer and its principal objects (e) Registered address and office of the issuer including details of its website and social media pages (if any) (f) Details of the members of the issuer who control more than ten per cent of the issuer (g) Details of the directors of the issuer, or their equivalent (h) Details of the senior management of the issuer (i) The issued and fully paid-up capital of the issuer (j) List of the subsidiaries of the issuer (k) Details of transaction advisers and their roles (l) All approvals obtained for the offer including board and member's approvals <p>Attach or refer and make available for inspection (in hard or soft copies) relevant document in support of the information provided.</p> <p>Any requirement for details of persons to be provided must include the name, contacts and physical addresses of the persons.</p>
2.	<p>Details of the Issue including:</p> <ul style="list-style-type: none"> (a) Description of the securities and rights appurtenant thereto; (b) Number, price, type and conditions for issues (if any); (c) The minimum issue lot size; (d) Issue date; (e) Interest rate, period and commencement date; (f) Maturity date; (g) Summary of the Redemption policy; (h) Total amount to be raised; (i) Minimum amount to be raised for offer to be successful; (j) Selling restrictions (if any);

	<ul style="list-style-type: none"> (k) Summary of Allotment policy; (l) Summary of Refund policy (if offer is not successful); (m) Credit rating of the securities (if any); (n) Detailed schedule of use of the proceeds of the issue; and (o) Indicative timetable for the issue.
3.	<p>Summary of the financial performance and financial position of the issuer including:</p> <ul style="list-style-type: none"> (a) Net Assets of the issuer; (b) Profitability of the issuer over the five years preceding the issue or such shorter period if the issuer has been in operation for less than five years; (c) Any completed and ongoing acquisitions in the last two years; (d) Auditor's statement on the going concern status of the issuer; (e) Statement by the directors of the issuer that the issuer is not in breach of any of its loan obligations; (f) Details of receiving bank and confirmation that it is independent of the issuer; (g) Details of reporting accountant and auditor; and (h) Description of underwriting arrangement and if the underwriter has any conflict of interest. <p>Attach or refer and make available for inspection (in hard or soft copies) relevant document in support of the information provided.</p> <p>Any requirement for details of persons to be provided must include the name, contacts and physical addresses of the persons.</p>
4.	<p>Details of the targeted investors including:</p> <ul style="list-style-type: none"> (a) Details of the persons to whom the offer is to be made; and (b) A confirmation that the target investors are sophisticated investors.
5.	Any other material information or other information that the Authority may require

FIFTEENTH SCHEDULE

{r. 30(2)}

INFORMATION NOTICE

(Pursuant to section 30C of the Capital Markets Act)

NO.	REQUIREMENT
1.	Comprehensive Information on the Issuer including: <ul style="list-style-type: none"> (a) Name of Issuer; (b) Incorporation/Registration Document; (c) Primary line of business; (d) List of Subsidiaries; (e) List of Directors and Senior Management; (f) Paid-up Capital; (g) Net Assets; and (h) Name and contact details of directors responsible for the offer (<i>Please include certified copies of identification documents and a recent passport photograph of each director</i>).
2.	Details of the Issue including: <ul style="list-style-type: none"> (a) Details of the persons to whom the offer is made; (b) The number of persons to whom the offer is to be made; (c) Minimum subscription amount per person; (d) Total amount to be raised under the offer; (e) Minimum amount required for the offer to be deemed successful; (f) Detailed schedule of use of proceeds; (g) Restriction on transferability of the securities; and (h) All relevant approvals obtained for the offer.
3.	Details of the Shares Registrar.
4.	Details of Issuer's Professional Advisors for the offer (<i>include names, contacts and physical address</i>).
5.	Copy of Information Memorandum (if any).
6.	Disclaimer that the approval of Capital Markets Authority has not been sought or granted.
7.	Statement that investors are advised to seek independent advice on the offer.
8.	Confirmation that potential investors will be contacted privately, and the offer will not be advertised.
9.	Statutory Declaration by the Directors responsible for the offer confirming that the submitted information is accurate in all respects.
10.	Any other relevant information.

SIXTEENTH SCHEDULE

[r. 35(1)]

REQUIREMENTS FOR OFFER OF SECURITIES USING A BOOK BUILDING PROCESS

	PART I - PRELIMINARY
Definitions	<p>"Book building" means a process by which a demand for the securities proposed to be issued by an issuer is elicited and built up and the price of such securities is assessed for the determination of the quantum of such securities to be issued.</p> <p>"Book building portion" refers to the pool of securities that will be available for offer and allotment to the participating entities through the book-building process and which have been segregated from the securities to be offered at a fixed price.</p> <p>"Book runner" refers to the primary coordinator of the book building process in debt and equity offers.</p> <p>"Participating entity" means a professional investor as prescribed by the Authority.</p> <p>"Regulations" means these Regulations</p>
	PART II – BOOK BUILDING PROCESS
Book building portion	1. The portion of securities offered to the public that are to be available for the book-building process shall be identified as the "book building portion" in the information memorandum
Fixed price portion	2. The balance of securities constituting the offer to the public, excluding the book building portion, shall be separately identified as "fixed price portion" in the information memorandum
Approval of the information memorandum	<p>3. A complying information memorandum shall be lodged with and approved by the Authority prior to the opening of the book building process and shall disclose, in addition to all other requirements:</p> <ul style="list-style-type: none"> (a) the size of the issue and the amounts to be raised through the book building and fixed price portions; (b) the criteria for bid consideration and selection in the book building process; (c) the duration of the book building period; (d) the method and process of bidding; (e) the names and addresses of the book runner or syndicate members operating the bidding terminals for submitting bids: <p>Provided that the information memorandum shall be approved pending inclusion of the price of the offer and the quantum of securities to be issued.</p>

Appointment of the book runner	4. The book runner shall be nominated by the issuer from persons who are qualified to act as transaction advisers and shall be identified as such in the information memorandum.
Circulation of information memorandum	5. The information memorandum approved by the Authority shall be circulated by the book runner to the participating entities inviting offers for the securities in respect of the book building portion.
Records of orders on book building portion	6. The book runner on receipt of the orders shall maintain a record of all the participating entities' names and the number of securities ordered and the price at which the participating entity is offering to subscribe to securities under the book building process.
Determination of the offer price	7. At the close of the book building period and following a review of the orders received in accordance with the criteria disclosed in the information memorandum, the book runner and the issuer shall determine the price at which the securities shall be offered to the public.
Price for the offer shall be the same	8. The issue price for the book building portion and fixed price portion categories shall be the same.
Issuer to ensure adequate arrangements are made to secure payment	9. The issuer and book runner shall ensure that adequate arrangements for funds are made by all participating entities to support any offers lodged during the book building process. The nature of the arrangement required of participating entities shall be disclosed in the information memorandum.
Allotment for the book building portion category	10. The information memorandum shall indicate one date of allotment which shall be deemed date of allotment for the both the book building and fixed price portions.
Responsibility of the book runner	11. The book runner shall have primary responsibility for the book building process.
Securities to be offered through book building	12. An issuer may offer up to one hundred per cent of the offer securities through a book building process subject, where appropriate, to compliance with eligibility requirements relating to listing.
Indication of floor price or price band	13. The information memorandum may prescribe a floor price or an indicative price band for the book building process and shall give the basis for the determination of the same.
Determination of the number of securities to be offered	14. On establishment of the offer price, the quantum of securities to be offered shall be determined based on the issue size divided by the price which has been determined.
No participation incentives	15. No incentive, whether in cash or kind, shall be paid to investors to participate in the book building process or the offer of securities.
Communication of allocation to participating entities	16. On determination of entitlements in the book building process the number of securities which each participating entity is to be allocated shall be communicated to the respective participating entity within 24 hours and a return on all allocations shall be made to the Authority within the same period.

Registration of the final information memorandum with the Registrar	17. The information memorandum containing all disclosures required under these regulations including the price and the number of securities offered shall be registered with the Registrar of Companies, or other relevant Registry
	PART III – ADDITIONAL DISCLOSURES
Additional Disclosures	<p>18. The following additional disclosure requirements shall be made in the information memorandum:</p> <ul style="list-style-type: none"> (a) The particulars of syndicate members of the book runner where more than one book runner is appointed. Provided that the rights, obligations and responsibilities of each shall be defined in a binding agreement (b) The following statement shall be given under the 'basis for issue price': <i>"The issue price has been determined by the issuer in consultation with the book runner, on the basis of assessment of demand from the participating entities for the offered securities by way of book building."</i> (c) The following accounting ratios shall be given under the basis for issue price for each of the accounting periods for which the financial information is given where applicable: <ul style="list-style-type: none"> (i) Earning per share, pre-issue, for the last five years, as adjusted for changes in capital. (ii) Price earning ratio (P/E), pre-issue and comparison thereof with industry P/E where available. (iii) Average return on net-worth in the last five years. (iv) Net-Asset value per share based on last balance sheet. (d) The accounting ratios disclosed in the information memorandum shall be calculated after giving effect to the consequent increase of capital on account of compulsory conversions outstanding, as well as on the assumption that the options outstanding, if any, to subscribe for additional capital shall be exercised.
	PART IV - PROCEDURE FOR BIDDING
Procedure for bidding	<p>19. The method and process of lodging of offers during the book building process shall be subject to the following:</p> <ul style="list-style-type: none"> (a) Bidding during the book building period shall be open for at least 3 days; (b) Bidding shall be conducted on an electronically linked transparent system of computer terminals; Provided that the Authority may, in writing, authorize bidding to be conducted otherwise than on an electronic system on a case-by-case basis.

	<p>(c) The syndicate members shall ensure that at least one electronically linked computer terminal is available for purposes of bidding at all locations where bids may be submitted.</p> <p>(d) All locations where bids may be lodged shall be specified in the information memorandum.</p> <p>(e) Investors shall place their bids only through the syndicate members who shall be responsible for ensuring that bids are only accepted from participating entities.</p> <p>(f) The investors shall have the right to revise their bids in line with the procedure to be prescribed in the information memorandum.</p> <p>Provided that where the Authority has authorized bidding to be conducted otherwise than on an electronic facility, investors shall not have rights to revise their bids.</p> <p>(g) Bidding form:</p> <p>(i) There shall be a standard bidding form to ensure uniformity in bidding and accuracy of information.</p> <p>(ii) The bidding form shall contain information about the investor, the price and the number of securities that the investor wishes to bid for.</p> <p>(iii) All bidding forms shall be serially numbered.</p> <p>(iv) The bidding form shall be dated and time stamped prior to being issued in duplicate and signed by the investor and countersigned by the syndicate member, with one form retained by the investor and the other by the book runner or the syndicate member.</p> <p>(h) At the end of each day of the bidding period the demand shall be displayed graphically on the computer terminals for the information of the syndicate members as well as the investors and a record maintained by the book runner.</p>
	PART V - ALLOCATION AND ALLOTMENT PROCEDURE
Allocation in case of under subscription	20. In case of an under subscription in any category, the undersubscribed portion may be allocated to the bidders in the other categories in accordance with the allocation policy disclosed in the information memorandum.
Allocation criteria to be disclosed	21. The allocation of securities to investors under the book building portion shall be determined by the issuer and the book runner in accordance with criteria explicitly set out in the information memorandum.
Period of fixed price offer	<p>22. Following the book building process:</p> <p>(a) The offer period for the fixed price portion, shall open within 5 working days from the date of closure of bidding; and</p>

	(b) The fixed price offer shall remain open for a period of at least 10 working days.
Investors eligible to make application in fixed price offer	23. The investors who have participated in the book building process shall not be barred from participating in the fixed price portion of the offer.
PART VI - MAINTENANCE OF BOOKS AND RECORDS	
Separate collection accounts	24. The issuer shall open two different accounts for collection of application monies, one for the book building portion and the other for the fixed price portion category.
Book runner to maintain the result of the allocation process	25. A final book of demand showing the result of the allocation process shall be maintained by the book runner.
Records to be maintained	26. The book runner, any syndicate member, participating entities and other intermediaries involved in the book building process shall maintain adequate records on the book building process.
Authority's power to inspect records	27. The Authority shall have the power to inspect the records, books and documents relating to the book building process.

SEVENTEETH SCHEDULE

(r. 90)

APPROVAL AND LISTING FEES

PART A – CAPITAL MARKETS AUTHORITY'S APPROVAL AND LISTING FEES	
Listing Fees	<p>(a) Issue of securities to the public or a section of public - 0.15% (percentage of the value of the issue) subject to a maximum fee of Kshs.30 million.</p> <p>(b) Listing by Introduction - 0.25% of market capitalization - subject to a maximum of Kshs. 5,000,000.</p> <p>(c) Capitalization or rights issue - Kshs 50,000 or 0.25% of value of issue.</p> <p>(d) Issuer of commercial paper and corporate bonds – approval and renewal - 0.1% of the value of issue subject to a maximum of Kshs.30 million.</p> <p>(e) Issuer of regional fixed income securities-each East African Partner State regulator approving the issue shall receive an equal share of the evaluation fee of 0.1% of the value of the offer subject to a maximum of the local currency equivalent to United States of America dollars 200,000 and a minimum of the local currency equivalent to United States of America dollars 20,000.</p> <p>(f) Approval of listing of Government Securities 0.075% (percentage of the amount raised) subject to a maximum of Kshs.50 million.</p> <p>(g) Market Development fees to support investor education and market infrastructure development:</p> <p>(i) Amount payable by listed companies to the Authority 0.01% (percentage of market capitalization as at of November 30 of each year subject to a minimum fee of November 30 of each year) Kshs 50,000 and a maximum of Kshs. 100,000 per year.</p> <p>(ii) Amount payable directly to the Authority by issuers 0.005% with respect to listed fixed income securities, subject to a minimum fee of including the Government and corporate securities Kshs.100,000 per year and a on the Fixed Income Market Segment maximum of Kshs 2.5 of a securities exchange million (percentage of the aggregate value of the listed securities as at November 30 of each year).</p> <p>(h) Amount payable by each buyer and seller of a listed security:</p> <p>(i) shares 0.12%.</p> <p>(ii) fixed income securities 0.0015%</p>

	<p>(i) Amount payable by each buying and selling stockbroker:</p> <p>(i) shares 0.01%.</p> <p>(ii) fixed income securities 0.004%.</p> <p>(Percentage of the consideration payable to the investor compensation fund) section 18 (2)(a) Capital Markets Act)</p>
Off-Market Transaction Fees	<p>Approval fee payable by the transferee for transactions of listed securities outside the securities exchange authorized under section 31 (1A) (i) and (ii) as follows:</p> <p>(a) Transfer in settlement of an estate of a deceased person or a transfer not resulting in a change in beneficial ownership otherwise than for purposes of (ii) and (iii). Ksh. 1,500 per application (including an application relating to a portfolio of securities), provided that where the total value of securities in the application is below Ksh. 10,000, no fee shall be payable.</p> <p>(b) Transfer, arising out of the re-organisation of the share capital of a listed company, that does not result in a change of beneficial interest in such share capital. 0.1% (percentage of the nominal value of the shares) Subject to a maximum of Ksh. 100,00.</p> <p>(c) Any other transfer that results in a change of beneficial interest in the shares capital of a listed company, including any transfer under a take-over scheme, merger or acquisition, approved by the Authority 0.5% (percentage of the market value of the shares)</p>

Made on the 3rd October, 2023.

NJUGUNA NDUNG'U,
*Cabinet Secretary for the
National Treasury and Economic Planning.*

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THE CAPITAL MARKETS ACT

(Cap. 485A)

**THE CAPITAL MARKETS (COLLECTIVE INVESTMENT
SCHEMES) REGULATIONS, 2023**

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THE CAPITAL MARKETS ACT

(Cap. 485A)

IN EXERCISE of the powers conferred by section 12 (1) (f) of the Capital Markets Act, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

THE CAPITAL MARKETS (COLLECTIVE INVESTMENT SCHEMES) REGULATIONS, 2023

1. These Regulations may be cited as the Capital Markets (Collective Investments Schemes) Regulations, 2023. Citation.

2. In these Regulations, unless the context otherwise requires— Interpretation.

“accounting reference date” means the date stated in the most recently published information memorandum as the date on which the scheme’s annual accounting period is to end in each year;

“accrual interval” in relation to the fund manager periodic charge, means the interval specified in the incorporation documents over which the charge accrues;

“authorized corporate director” in relation to a collective investment scheme constituted as a corporate body means the director, being a corporate body, of the company responsible on a day-to-day basis for carrying out such functions as may be required by the Act or the incorporation documents to be carried out by such a director;

“authorized scheme” means a scheme approved by the Authority;

“business day”, in relation to anything done or to be done in Kenya means any day other than a Saturday, a Sunday or a public holiday in Kenya and in relation to anything done or to be done by reference to a market outside Kenya, means any day on which that market is normally open for business;

“cancellation price” means the price for each participatory interest payable by the fund manager on the cancellation of participatory interests;

“cash equivalent” means money, deposits or investments which fall within any of the following—

(a) money deposited with an eligible institution which is in—

(i) a current account; or

(ii) a deposit account, if the money can be withdrawn immediately and without payment of a penalty exceeding

(seven) days' interest calculated at ordinary commercial rates;

- (b) certificates of deposit issued by an eligible institution if immediately redeemable at the option of the participant;
- (c) Government and other public securities, if redeemable at the option of the holder; or
- (d) a bill of exchange issued by any Government or body.

"change in control" in relation to a fund manager means change in the controlling interest or change in legal form;

"class" in relation to participatory interests, means, according to the context, all of the participatory interests related to a single fund or a particular class of participatory interests in a single sub-fund;

"class meeting" means a separate meeting of holders of a class of participatory interests;

"collateral" means any form of security, guarantee or indemnity provided by way of security for the discharge of any liability arising from a transaction;

"closed-ended fund" means a scheme approved by the Authority which is—

- (a) constituted in a legal form;
- (b) with a fixed capital;
- (c) which pools funds from subscribers by private placement and invest them in a portfolio as approved by the Authority.

"constituent part" in relation to an umbrella fund, means one of the separate parts into which the assets under management of the umbrella fund is divided;

"controller", in relation to a body corporate, means a person who, either alone or with any associate or associates, is entitled to exercise, or control the exercise of fifteen per cent or more of the voting power at any general meeting of the body corporate or another body corporate of which it is a subsidiary and, for this purpose, associate means any subsidiary of that body corporate and any employee of that subsidiary;

"creation price" means the price for each participatory interest payable by the fund manager to the trustee on the creation of participatory interests;

"custodian" means an entity licensed by the Authority to hold in custody funds, securities, financial instruments, or documents of title to assets registered in the name of participants of assets under management;

"dealing day" means the period in each business day or in each other day when the fund manager is open for business during which the fund manager keeps his or her premises or any of them open to the public or otherwise publicly available for business of any kind;

"dealing period" means the period between one valuation point and the next;

"dilution" means the amount of dealing costs incurred, or expected to be incurred, by the scheme to the extent that they may reasonably be expected to result, or have resulted, from the acquisition or disposal of investments by the scheme as a consequence of the increase or decrease in the scheme's cash resources resulting from the issue or cancellation of participatory interests over a period

"eligible institution" means an institution approved by the Authority for the purposes stated in these Regulations;

"extraordinary resolution" has the meaning in regulation 139;

"final account" has the meaning in regulation 161;

"formation documents" means—

- (a) in relation to a collective investment scheme constituted as a corporate body, including an investment company, the memorandum and articles of incorporation;
- (b) in relation to a collective investment scheme constituted as a trust the trust deed and any supplemental deed thereto; and
- (c) in relation to any other collective investment scheme, such documents as may be directed by the Authority.

"intermediary services platform" means any electronic application or otherwise which facilitates the marketing and distribution of approved collective investment schemes other than a platform that is deployed by an existing licensed institution for the purpose of improving efficiency;

"intermediary service platform provider" means any person who operates an intermediary services platform and acts as an intermediary between the fund manager and the investors;

"investment certificate" means a physical or digital evidence of ownership of participatory interests of any type—

- (a) which contains a statement that the holder of the certificate is entitled to the number of participatory interests of that type represented by the certificate; or
- (b) delivery of which is otherwise sufficient to transfer title to the participatory interests concerned;

"investment policy statement" means the document which provides the general investment goals and objectives and describes the strategies that the fund manager should employ to meet the objectives"

"investor" means a holder or prospective holder of participatory interests in a collective investment scheme;

"issue" in relation to participatory interests, means the sale of participatory interests by the fund manager;

"issue price" means the fund manager's price for issue under regulation 90;

"leverage" means any method by which a fund manager increases the exposure of the scheme it manages whether through borrowing of cash or securities or leverage embedded in a derivative position or by any other means;

"listed security" means a security that is traded through a securities exchange;

"marketing" in relation to participatory interests in a registered collective investment scheme, means—

- (a) issuing or causing to be issued any advertisement inviting persons to become or offer to become participants in that scheme, or containing information calculated to lead directly or indirectly to persons becoming or offering to become participants in that scheme, or
- (b) advising or procuring any person to become a participant in that scheme and "to market" shall be construed accordingly;

"mortgage" includes a charge or other similar security created on or over an immovable property;

"net asset value" means the value of a fund's assets less the value of its liabilities (including such provisions and allowance for contingencies);

"participant" means the holder of a participatory interest;

"participatory interest" means any interest or share, undivided or otherwise, whether called a participatory interest, share, unit or by any other name, and whether the value of such interest, unit or share remains constant or varies from time to time, which may be acquired by an investor in a portfolio;

"price" in relation to a participatory interest, means the price of a participatory interest calculated in accordance with Part VI of these Regulations before any adjustment for the effect of dilution;

"public" in respect of an invitation to purchase participatory interests in a collective investment scheme refers to members of the public at large, provided that any restriction as to type of investor shall not affect the public nature of the offer;

"reconstruction" has the meaning in regulation 156;

"recognised scheme" means a scheme managed in and licensed or authorized under the law of a country or territory outside Kenya and approved by the Authority to solicit investments in such scheme from members of the public of Kenya;

"redemption", in relation to participatory interests in a scheme, means the purchase of participatory interests from a participant by the fund manager or otherwise;

"redemption charge" has the meaning in paragraph 19 of the Third Schedule;

"sale" in relation to participatory interests means the sale of participatory interests by the fund manager or otherwise;

"shareholder" means a participant;

"scheme" means a collective investment scheme;

"scheme advertisement" means an advertisement inviting persons to participate or to offer to participate in a collective investment scheme or to exercise any right conferred by a scheme to acquire, dispose of, underwrite or convert participatory interests in a scheme or containing information calculated to lead directly or indirectly to persons doing so;

"scheme documents" means the incorporation documents and information memorandum;

"short sale" has the meaning in the Capital Markets (Securities Lending, Borrowing and Short Selling) Regulations, 2017, and "short-selling" shall be interpreted accordingly;

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"sub-fund" means a part of the assets under management of an umbrella fund that is pooled separately;

"trustee" means the person holding title to the assets of a collective investment scheme on trust for the participants and oversees the operations of the scheme and includes the board of directors for an investment company or the manager for a Limited Liability Partnership;

"umbrella fund" means a scheme which provides for the contributions of participants to be pooled in separate sub funds, whether or not participants in separate sub funds are entitled to exchange rights in one sub fund for rights in another;

"unit" means a participatory interest;

"unlisted security" means a security that is not traded through a securities exchange; and

"valuation point" means the valuation point fixed by the fund manager under regulation 99(1)(f).

3. (1) These Regulations apply to collective investment schemes constituted in Kenya which pools funds either from the public or by private arrangement. Application

(2) A closed end fund, including an investment company with fixed capital whose participating interests are offered to members of the public shall be listed on a securities exchange.

(3) Where any arrangement provides for pooling of funds in relation to separate parts of the property in question, the arrangements shall not be regarded as constituting a single collective investment scheme unless the participants are entitled to exchange rights in one part for rights in another.

4. (1) A person shall not—

- (a) establish or operate a collective investment scheme or purport to establish or operate such a scheme, unless the scheme is approved and that person is licensed by the Authority as a fund manager or an investment bank;
- (b) establish or operate an intermediary service platform without a license from the Authority;
- (c) advertise or cause to be advertised in Kenya, a scheme advertisement unless that person is a licensed person, and the contents of the advertisement have been approved by the trustee of the scheme and complies with Part XIV of these Regulations; or

Restriction on
establishment and
operation

- (d) advise or procure any person to become a participant in a collective investment scheme unless the scheme is an approved scheme.

(2) A person who contravenes this regulation commits an offence and shall be liable upon conviction to the penalty specified under section 34A of the Act and general damages where applicable, for any loss occasioned to the other party.

PART II—ESTABLISHMENT OF SCHEMES

5. A collective investment scheme that is an investment company shall be established by Articles of Association that shall provide for the matters specified in part I of the Second Schedule.

Investment
companies

6. A collective investment scheme that is a unit trust shall be established by a Trust Deed that shall provide for the matters specified in part II of the Second Schedule.

Unit trusts

7. (1) A collective investment scheme that is a partnership shall be established by a Partnership agreement that shall provide for the matters specified in part III of the Second Schedule.

Partnerships

(2) A collective investment scheme that is a partnership shall only be established as a limited liability partnership.

8. A fund manager shall make the formation documents available for inspection free of charge to any participant at all times during ordinary office hours at the registered office of the fund manager.

Inspection of
formation documents

9. (1) The formation documents shall not include any provision which is unfairly prejudicial to the interests of participants generally or to the holders of any class of participants.

Additional
provisions applicable
to the formation
documents

(2) The formation documents may provide that, where the holding of any participatory interests by a participant is or is reasonably considered by the fund manager an infringement of any law or governmental regulation, the participatory interests so held shall be redeemed or cancelled and, if the incorporation documents contain such a provision, it shall also provide the procedure for that redemption or cancellation.

PART III—APPROVAL OF SCHEMES

10. (1) An application for approval of a collective investment scheme shall be made to the Authority in the manner set out in Form I as set out in the First Schedule and by a licensed person who shall be a fund manager or investment bank accompanied by the following—

Application for
approval

- (a) the scheme's formation documents prescribed in the Second Schedule;

- (b) the information memorandum;
- (c) the name of the fund manager, particulars of the directors of the fund manager or investment company as specified in subregulation (2);
- (d) the corporate name and registered principal office of the fund manager, trustee, where applicable, and custodian of the scheme;
- (e) a risk management policy as set out in the Fifth Schedule; and
- (f) such additional information as may be required by the Authority.

(2) The particulars of the directors are—

- (a) in the case of an individual, their present name, any former name, usual residential address, nationality, business occupation if any, particulars of any other directorships held by the individual or which have been held by that individual and date of birth; and
- (b) in the case of a company, its corporate name and the address of its registered or principal office and the directors of such companies.

(3) At any time after receiving an application and before determining it, the Authority may require the applicant to furnish additional information.

(4) Any information to be furnished to the Authority under this regulation shall, if it is so required, be in such form or verified in such manner as the Authority may specify.

11. Every application shall be accompanied by such fee as may be prescribed in the Seventh Schedule. *Application fees.*

12. (1) A collective investment scheme shall be eligible for approval where— *Criteria for approval*

- (a) the scheme has—
 - (i) a fund manager who shall be independent of the trustee and custodian;

- (ii) a trustee, in the case of a trust; and
 - (iii) a custodian;
 - (b) in the case of an investment company reference to the fund manager shall be construed as a reference to its authorized corporate director;
 - (c) the fund manager, trustee and custodian are each—
 - (i) a body corporate incorporated in and with its registered office in Kenya; and
 - (ii) a licensed person;
 - (d) the directors of the—
 - (i) fund manager;
 - (ii) trustee;
 - (iii) custodian; and
 - (iv) the key personnel of the parties referred to in subparagraphs (i) and (ii) are fit and proper;
 - (e) the aims of the scheme are reasonably capable of being achieved as demonstrated in the investment policy statement;
 - (f) an investment company with fixed capital or a closed ended fund listed on a securities exchange, the participants are either entitled to have their participating interests redeemed or repurchased in the manner provided for in these Regulations; and
 - (g) the price at which participatory interests are sold or redeemed is calculated on the basis of net asset value.
- (2) In the case of a collective investment scheme constituted as a company—
- (a) the company has at least three directors one of whom shall be a licensed fund manager;
 - (b) the directors are fit and proper persons to act as directors of such a company;
 - (c) the combination of the experience and expertise of the directors is such as is appropriate for the purposes of carrying on the business of the company; and

- (d) a fund manager, namely the authorized corporate director, has been appointed by the directors of the company from amongst such of their number as are bodies corporate and not prohibited by scheme regulations from acting in that capacity; and the custodian is independent of the persons appointed as directors of the company.

(3) A trustee and a custodian may be one entity subject to the entity demonstrating to the Authority that conflicts of interest are well mitigated.

13. (1) The fund manager shall ensure that the name of the collective investment scheme is not undesirable or misleading.

Naming of funds

(2) The scheme shall ensure that the name of the scheme includes the specific generic name relevant to the fund.

(3) A special fund shall include the word "special" in the name of the fund and describe the characteristics of the constituent assets of the fund.

14. A collective investment scheme does not qualify to be approved as an umbrella fund unless each constituent part of the scheme would, if that constituent part was the subject of a separate application for approval, qualify for separate approval.

Qualification to be approved as an umbrella fund

15. (1) The Authority may, on being satisfied that an application duly made in accordance with regulation 10 meets the criteria for approval and any other relevant requirements as may be required by the Authority, approve the applicant to operate as a collective investment scheme.

Approval

(2) The Authority shall process the application for approval within sixty days after the applicant submits a complete application to the satisfaction of the Authority.

(3) The Authority may, in approving a scheme under subregulation (1), impose such conditions as it may consider necessary.

16. (1) Where the Authority intends to reject an application under regulation 10, it shall give the applicant written notice of its intention to do so, stating the reasons for the intended rejection.

Refusal of approval

(2) A person on whom a notice is served under subregulation (1) may, within twenty-one days after service, make written or oral representations to the Authority regarding the intended rejection of the application.

(3) In making its decision, the Authority shall have regard to any representations made in accordance with subregulation (2) in determining whether to reject the application.

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| 17. An approved collective investment scheme shall pay an annual fee as set out in the Seventh Schedule. | Annual fees |
| 18. Once a collective investment scheme has been approved, no amendments may be made to the formation documents without the Authority's approval. | Amendment of incorporation documents |
| 19. All fund managers, trustees, and custodians shall, in addition to these Regulations, observe the requirements of the Capital Markets (Conduct of Business) (Market Intermediaries) Regulations, 2011. | Conduct of Business Regulations
L.N 145/2011 |
| PART IV—OFFER DOCUMENTS | |
| 20. A collective investment scheme shall not pool funds from the public or a section of the public unless it has been approved by the Authority. | Prohibition of pooling of funds from the public |
| 21. The information memorandum shall, in addition to any other applicable provision of these Regulations, comply with the requirements of the Third Schedule. | Information memorandum |
| 22. (1) A fund manager shall, for each scheme that it manages, draw up a key information document for investors that shall contain the information set out in the Fourth Schedule. | Key Investor Information Document. |
| (2) The key information document shall be approved by the trustee and filed with the Authority. | |
| (3) The words "key investor information" shall be clearly stated in that document. | |
| (4) An up-to-date version of the key investor information shall be made available in an accessible medium and on the website of the fund manager. | |
| (5) The fund manager shall send key investor information and any amendments thereto to the Authority. | |
| (6) The essential elements of key investor information shall be kept up to date. | |
| 23. (1) The fund manager and the trustee, where applicable, shall each make accessible the information memorandum for inspection by any member of the public during ordinary office hours at the principal place of business of the fund manager and trustee. | Public availability of scheme documents. |
| (2) The information memorandum to be made available under this regulation shall be in the English language. | |

24. (1) The fund manager shall submit any proposed material alteration to the scheme or scheme documents to the Authority for prior approval. Alterations

(2) The Authority shall determine whether holders shall be notified of the alterations to the scheme documents and the period of notice, if any, to be applied before the changes are to take place.

(3) The notice period referred to in subregulation (2) shall not exceed three months unless the Authority otherwise determines subject to the merits of the case.

(4) Subject to regulation 24, the scheme documents may be altered by the fund manager without consulting the holders:

Provided that the trustee and the board of directors, as the case may be, shall certify in writing that, in their opinion, the proposed alteration—

- (a) is necessary to enable compliance with fiscal and statutory requirements;
- (b) does not materially prejudice the holders' interests;
- (c) does not, to any material extent, release the trustee, custodian, fund manager or the board of directors, their agents, or associates from any liability to holders;
- (d) does not materially increase the costs payable from the scheme portfolio concerned; or
- (e) is necessary to correct a manifest error.

(5) A power conferred on a fund manager or any investment company by these Regulations is subject to any express restriction contained in the scheme's incorporation documents.

25. (1) An information memorandum shall be reviewed at least once in every two years and such review shall take account of any change or new matter other than a matter which reasonably appears to the fund manager to be insignificant. Revision of
information
memorandum

(2) Notwithstanding subregulation (1), the information memorandum shall be reviewed upon the occurrence of any material change in the matters stated in the memorandum or upon the occurrence of any new material information which ought to be disclosed in the memorandum.

26. (1) The Authority may prohibit an approved collective investment scheme from— Restriction of
business

- (a) entering into transactions of any specified kind, or entering into those transactions except in specified circumstances or to a specified extent;
- (b) soliciting business from persons of a specified kind or otherwise; or
- (c) carrying on business in a specified manner or otherwise than in a specified manner.

(2) A prohibition under this regulation may relate to transactions entered in connection with or for the purposes of a collective investment scheme or to other business carried on in connection with or for the purposes of such a scheme.

27. (1) The Authority may prohibit an approved scheme from disposing of or otherwise dealing with any assets, or any specified assets, of the scheme or, as the case may be, the scheme's appointed representative, in any specified manner or otherwise than in a specified manner.

Restriction on
dealing with assets

(2) A prohibition under this regulation may relate to assets outside Kenya.

28. Any provision of the scheme documents of a collective investment scheme shall be void insofar as it would have the effect of exempting the fund manager, trustee or custodian from liability for any failure to exercise due care and diligence in the discharge of its functions in respect of the scheme.

Avoidance of
exclusion clauses

29. The interests of the participants in a collective investment scheme shall consist of participatory interests.

Participatory
interests

PART V—MANAGEMENT OF COLLECTIVE INVESTMENT SCHEMES

Division A—Trustees

30. (1) A collective investment scheme that is constituted as a Trust shall appoint a trustee who shall be responsible for oversight of the scheme.

Obligation to appoint
a trustee

(2) The appointment of a trustee shall be evidenced by a written contract.

31. A person shall not be appointed as a trustee of a collective investment scheme unless such person holds a valid license issued by the Authority.

Trustee to be
licensed by the
Authority

32. A person is eligible for a licence to act as a trustee of a collective investment fund if that person—

Eligibility to be a
trustee

- (a) is a company or such body corporate incorporated, formed or established in Kenya;
- (b) has an initial and continuous issued and paid-up capital of at least ten million shillings;
- (c) has a minimum liquid capital of five million shillings or eight per cent of its liabilities which must be maintained throughout the duration of the license;
- (d) has as its directors and shareholders, persons who are fit and proper as provided under section 24A of the Act;
- (e) has sufficient financial, technical operational, and technological resources and experience necessary to enable it effectively conduct its business and carry out its obligations as a trustee of a collective investment scheme;
- (f) has staff capable of providing professional services as trustees; and
- (g) has in place adequate systems, policies, processes, procedures and the necessary control environment to conduct its business.

33. An application for a licence shall be made in the manner prescribed in Form II as set out in the First Schedule and shall be accompanied by the following—

Requirements for
licensing

- (a) certified copy of incorporation documents;
- (b) evidence in the constitutive documents authorizing the entity to carry on trustee business;
- (c) audited accounts for the preceding two years, where applicable;
- (d) business plan;
- (e) letter of no-objection from the primary regulator, if any;
- (f) details of the proposed external auditor; and
- (g) the prescribed application fees set out in the Seventh Schedule.

34. (1) The Authority shall, if satisfied that the applicant has met all the requirements for grant of a licence and upon payment of the fees set out in the Seventh Schedule, grant a licence to operate as a trustee.

Grant of a license

(2) The trustee shall be required to pay an annual regulatory fee as set out in the Seventh schedule.

(3) A licence granted shall remain valid unless suspended or revoked by the Authority in accordance with section 26 and 26A of the Act.

35. Where a trustee obtains professional indemnity insurance, the trustee shall disclose the nature and extent of the insurance to the Authority at the point of licensing, to the fund manager and to the investors.

Professional
indemnity

36. The trustee shall have the duty of taking reasonable care to ensure—

Duties of the trustee

- (a) that the scheme is managed by the fund manager in accordance with the scheme documents and these Regulations;
- (b) in relation to investment powers, that decisions about the constituents of the assets under management of the scheme do not exceed the powers conferred on the fund manager;
- (c) that any irregularity or undesirable practice that it is aware of is notified to the fund manager and where no action is taken by the fund manager, the trustee to report the same to the Authority; and
- (d) that there are no conflicts of interest and the interests of all participants are treated as paramount in all matters.

37. (1) The trustee shall ensure that the fund manager maintains accurate and sufficient records and adopts such procedures and methods for the calculation of prices at which participatory interests are issued and redeemed to ensure that those prices are within the limits for the time being prescribed under these Regulations.

Trustee to ensure
fund manager
maintains sufficient
records

(2) Where the trustee is at any time not satisfied in respect of any matter specified in subregulation (1), the trustee shall inform the Authority.

38. In the case of a unit trust, the trustee shall hold the title to the scheme's assets under management.

Assets under
management

39. (1) The trustee shall ensure that assets of a collective investment scheme are—

Control by the
trustee of the assets
of the scheme

- (a) identifiable; and
- (b) segregated from—

- (i) the trustee's own assets;
- (ii) the assets of the fund manager and the fund manager's related entities; and
- (iii) the assets of other collective investment schemes and other clients of the trustee.

(2) The relationship between the fund manager and trustee shall be formally documented in a contract which shall include provisions about the scope of the trustee's responsibility and liability.

(3) The trustee shall ensure that the custodian takes into custody all the scheme assets and holds them in trust for the holders and that custody arrangements for the assets of the collective investment scheme are monitored on an ongoing basis.

(4) The trustee shall take all steps and execute all documents which are necessary to ensure that the acquisitions, disposals and loans properly made by the fund manager are completed.

(5) The trustee shall cause the collection of any income due to be paid to the scheme and hold any income received in trust for the participants in accordance with these Regulations and the trust deed.

(6) The trustee shall keep such records as are necessary—

- (a) to enable the trustee to comply with these Regulations; and
- (b) to demonstrate that such compliance by the trustee has been achieved.

40. (1) The trustee shall take all steps and execute all documents as are necessary to ensure that recommendations properly given to the trustee by the fund manager as to the exercise of rights including voting rights attaching to the ownership of assets are carried out.

Exercise of rights in respect of the assets of the scheme

(2) The trustee may exercise any voting rights conferred on it by any of the assets of the scheme which is in participatory interests or shares in another collective investment scheme managed or otherwise operated by the fund manager but only after consultation with the fund manager.

(3) The trustee shall, upon the written request of the fund manager, execute and deliver or cause to be executed and delivered to the fund manager or the fund manager's nominees, such powers of attorney or proxies as the fund manager may reasonably require, in

such name or names as the fund manager may request, authorizing such holders of the powers of attorney and proxies to vote, consent or otherwise act in respect of all or any part of the assets of the scheme not included in subregulation (2).

(4) The trustee shall, without undue delay, forward to the fund manager all notices of meetings, reports, circulars, proxy solicitations and other such documents received by the trustee as a registered participant of any security.

41. (1) The assets entrusted to or held in custody by a trustee or custodian shall not be reused by the trustee or custodian, or by any third party to which the custody function has been delegated, for their own account.

Reuse of assets

(2) Without prejudice to the generality of subregulation (1), the assets may be reused where—

(a) the reuse of the assets is executed for the account of the collective investment scheme;

(b) the trustee is carrying out the recommendations of the fund manager;

(c) the reuse is for the benefit of the collective investment scheme and in the interest of the participants; and

(d) the transaction is covered by high-quality and liquid collateral received by the collective investment scheme under a title transfer arrangement.

(3) The market value of the collateral shall, at all times, amount to at least the market value of the reused assets plus a premium.

(4) For purposes of this regulation, “reuse” shall comprise any transaction of assets held in custody including transferring, pledging, selling and lending.

42. (1) A trustee shall maintain, administer, record, account and render reports on custodial assets separately and apart from the trustee’s own accounts and those of each and every other customer’s account.

Reporting obligations

(2) A trustee shall submit to the Authority within twenty-one days after the end of each period of three months, the compliance status of the scheme in accordance with these Regulations.

43. A trustee shall efficiently perform the functions and duties conferred upon the trustee by these Regulations.

Timely performance of duties.

44. A trustee shall not delegate to the fund manager any function of oversight in respect of the fund manager.

Delegation

45. (1) The fund manager shall, in managing the affairs of the collective investment scheme, avoid conflicts of interest and take all reasonable steps to ensure that there is no conflict of interest between—

Conflict of interest

- (a) any affected persons; and
- (b) the fund manager's interest and those of the fund manager's investors.

(2) The fund manager shall, in managing the affairs of the collective investment scheme, treat the interests of all participants as paramount in all matters.

(3) For the purposes of this regulation, "affected person" includes—

- (a) the fund manager;
- (b) the trustee;
- (c) custodian;
- (d) any investment adviser; and
- (e) any associate of the fund manager, trustee, custodian or investment advisor, as the case may be.

46. The trustee shall be removed upon the happening of any of the following events—

Removal of a trustee

- (a) voluntary retirement of the trustee;
- (b) the trustee ceases to be a licensee of the Authority;
- (c) the trustee goes into liquidation;
- (d) where a manager or a receiver is appointed over any of the trustee's assets;
- (e) the trustee fails to perform the trustee's duties and the fund manager, for good and sufficient reason, recommends the removal of the trustee and gives a three months' notice of the removal to the trustee, the unit holders and Authority; or
- (f) upon the occurrence of any other event warranting the trustee's removal, subject to approval by the Authority.

47. (1) A trustee may not retire voluntarily, unless the trustee has—

Procedure for removal

- (a) given at least six months' notice in writing of the intention to resign to the Authority, fund manager and

unit holders and sets out in such notice the reasons for for the intended resignation; and

- (b) recommended and appointed a new trustee in the trustee's place within the notice period.

(2) Where the trustee is unable to find a replacement within the notice period, the trustee shall make a recommendation to unit holders at an extraordinary general meeting to—

- (a) dissolve the collective investment scheme; or
- (b) transfer the unit holders to another fund.

- (3) If the trustee ceases to be a licensed person or fails to perform the trustee's duties, the fund manager shall, as provided in the scheme documents, appoint another eligible person to be the trustee subject to the approval by the unit holders at an extraordinary general meeting.

48. (1) The agreement between the fund manager, the trustee and the board of directors, as the case may be, shall make provision on the trustee fees.

Trustee fees

(2) The fees shall be disclosed to the holders in each annual report.

(3) The trustee shall have the right to charge fees to the scheme and be reimbursed for expenses in accordance with the terms and conditions of the agreement with the fund manager within the parameters set out in the scheme documents.

Division B—Fund Managers and Directors of Investment Companies

49. (1) A collective investment scheme shall have a fund manager.

Fund manager.

(2) The fund manager shall be responsible for the management and administration of the collective investment scheme.

(3) The fund manager shall not be related to the trustee or the custodian of a collective investment scheme.

50. A person shall not perform the functions of a fund manager of a collective investment scheme unless such a person holds a licence to operate as a fund manager issued by the Authority.

Licence to operate as a fund manager

51. A fund manager shall administer a collective investment scheme—

Principles of administration of a collective investment scheme.

- (a) honestly and fairly;

- (b) by acting in the best interests of participants and, if there is a conflict between participant's interests and the fund manager's own interests, give priority to participants' interests;
- (c) with skill, care and due diligence; and
- (d) be guided by the Stewardship Code for Institutional Investors, 2017, issued by the Authority.

52. (1) A fund manager shall—

Functions of fund manager

- (a) carry out the administration of the fund, including the management and control of the collective investment scheme, in accordance with the provisions of the scheme documents and these Regulations; and
 - (b) ensure that payments due on behalf of the scheme are made as required.
- (2) The principal duties of a fund manager shall include —
- (a) advising the trustee, on the asset classes which are available for investment;
 - (b) formulating a prudent investment policy;
 - (c) investing the scheme's assets in accordance with the scheme's investment policy including reinvestment of any income of the fund—
 - (i) subject to consent by the trustee, transferring, exchanging or delivering in the required form and manner the scheme assets held by the custodian;
 - (ii) ensuring that the shares in the investment company or units in the collective investment scheme are priced in accordance with the scheme documents and these Regulations; and
 - (iii) not selling any shares or units otherwise than on the terms and at a price calculated in accordance with the provisions of the scheme documents, rules of the collective investment scheme or these Regulations;
 - (d) rectifying any breach of matters arising under subparagraph (a) or (g) provided that where the breach relates to incorrect pricing of shares or to the late payment in respect of the issue or redemption of shares, rectification shall, unless the trustee otherwise directs, extend to the reimbursement or payment or arranging the reimbursement or payment of money—

- (i) by the fund manager to the holders or former holders;
 - (ii) by the fund manager to the scheme; or
 - (iii) by the scheme to the fund manager;
- (e) to at the request of a holder, purchasing any shares held by the holder on the terms and at a price calculated in accordance with the provisions in these Regulation;
- (f) publishing daily or in such periodic intervals as may be set out in an Information Memorandum, the price of shares or units in a widely accessible medium or as the Authority may guide, where necessary;
- (g) preparing and timeously dispatching all warrants, notices, accounts, summaries, declarations, offers and statements required under the provisions of the information memorandum, rules of the collective investment scheme or these Regulations, to be issued, served or sent and signing and executing all certificates and all transfers of securities;
- (h) making accessible for inspection to the trustee, or any approved auditor appointed by the fund manager with the approval of the trustee, the records and the books of account of the fund manager;
- (i) giving to the trustee or custodian or to any such auditor referred to in subparagraph (h) such oral or written information as the trustee, custodian or auditor requires with respect to all matters relating to the fund manager, its properties and its affairs;
- (j) making available or ensuring that there is made available to the trustee or custodian such details as the trustee or custodian may require with respect to all matters relating to the collective investment scheme;
- (k) being fair and equitable in the event of any conflict of interest that may arise in the course of its duties; and
- (l) maintaining a website disclosing, in detail, information relating to the collective investment scheme and any of its funds.

(3) The fund manager shall credit the monetary benefits arising out of managing scheme funds to a bank account opened in the name of the scheme under the control of the trustee.

(4) The fund manager shall issue to each participant for each purchase, a document evidencing the purchase of participatory interest in the collective investment scheme.

(5) The fund manager shall issue a statement to the participants at least once in each month, specifying any participatory interests held by any participant and showing the transactions in the participant's account during the preceding month and which shall be evidence of the title of the participant to the participatory interests.

(6) The fund manager's proprietary investment or non-investment in the scheme shall be disclosed in the quarterly performance report.

53. (1) The fund manager shall not be liable for any loss, damage or depreciation in the value of the scheme fund or of any investment comprised in or the income from which may arise by reason of depreciation of the market value of the shares and other assets in which scheme funds are invested unless such loss, damage or depreciation in the value of the scheme fund arises from negligence, wilful default or fraud by the fund manager or any of the fund manager's agents, employees or associates.

Liability of a fund manager

(2) In the absence of fraud or negligence by the fund manager, the fund manager shall not incur any liability by reason of any matter or thing done or suffered or omitted to be done by it in good faith under the provisions of the information memorandum, rules of the collective investment scheme or these Regulations.

(3) The fund manager shall not be under any liability except such liability as may be expressly assumed by it under the information memorandum, the rules of the collective investment scheme and these Regulations.

(4) A fund manager shall not be liable for any act or omission of the trustee save as expressly provided in these Regulations.

54. (1) The only payment which may be made to the fund manager out of the assets of the scheme by way of remuneration for the fund manager's services is a periodic charge arrived at and accruing under this regulation.

Remuneration of fund manager

(2) A periodic charge is payable only where the payment is authorised by and is calculable in an objective, fair and transparent manner which shall be set out in the scheme documents.

(3) The fund manager may, at any time, and at the fund manager's discretion, waive or rebate in full or any part of the

amounts mentioned in subregulation (1) and shall report to the trustee any such changes and give the reasons thereof.

(4) The fund manager shall disclose any other fees to be paid out of the assets of the schemes in the information memorandum.

(5) Any increase in the fees disclosed in the information memorandum as fees to be paid to the fund manager shall require prior approval by the participants and the same shall be notified to the Authority.

55. (1) A fund manager may, with prior written approval of the trustee and with the approval of the Authority, delegate any of the fund manager's administrative functions to any person other than the trustee or custodian.

Delegation by fund manager

(2) A delegation under subregulation (1) shall be in writing.

(3) Any misfeasance done by a person described under subregulation (1) in the performance of a function so delegated shall be regarded as having been done or omitted by the fund manager:

Provided that—

- (a) the fund manager shall remain liable for any act or omission of any sub-contracted fund manager;
- (b) the fees and expenses of any such persons shall be payable by the fund manager and shall not be payable out of the collective investment scheme portfolio;
- (c) any expenses incurred by any such persons which, if incurred by the fund manager would have been payable out of the collective investment scheme portfolio, may be paid out of the collective investment scheme portfolio to the fund manager by way of reimbursement; and
- (d) any such appointment or termination of appointment shall be notified in writing to all participants.

56. In the case of directors of an investment company—

Directors of investment company

- (a) at least one director shall be the authorised corporate director which is a person licenced to operate as a fund manager;
- (b) where there is only one director eligible to be an authorized corporate director, such director shall be the fund manager, but if there is more than one eligible authorized corporate director the directors shall appoint one of the body corporates to be the fund manager;

(c) where—

- (i) any person becomes or ceases to be a director;
- (ii) the appointment of a fund manager is terminated;
- (iii) a new fund manager is appointed;
- (iv) any change of a controller of a corporate director including the fund manager,

the Authority shall be notified in writing—

- (A) in case of subparagraph (c) (i) immediately by the fund manager;
 - (B) in the case of subparagraph (c) (ii) immediately by the fund manager whose appointment is being terminated;
 - (C) in the case of subparagraph (c) (iii) immediately by the new fund manager; and
 - (D) in the case of paragraph (c) (iv) immediately by the corporate director concerned, upon becoming aware of the change of the controller; and
- (d) a director shall not appoint an alternate director in the director's place.

57. (1) The fund manager may, without the specific authority of the trustee, give instructions to agents on the acquisition or disposal of assets of the scheme.

Dealing in assets of the scheme

(2) Where the trustee is of the opinion that a particular acquisition or disposal of property by the fund manager exceeds the power conferred on the fund manager, it is the duty of the fund manager at the fund manager's expense, to cancel the transaction or make a corresponding acquisition or disposal to secure restoration of the status quo that prevailed before the acquisition or disposal.

(3) The trustee may require a fund manager to cancel a transaction or to make a corresponding disposal where the trustee is of the opinion that—

- (a) the acquisition of assets by the fund manager involves documents of title or documents evidencing title being kept in the custody of a person other than the custodian; and
- (b) the trustee cannot reasonably be expected to accept the responsibility which would otherwise be placed upon it as a delegator.

(4) Where an investment company ceases to have any directors including the Authorized Corporate Director, the custodian shall have power—

- (a) to retain the services of a licensed person to carry out the functions set out in regulation 43; or
- (b) provided it is not prohibited from doing so by any rule or prohibition under these regulations to manage the assets under management itself or on behalf of the investment company until in either case—
 - (i) a director is appointed; or
 - (ii) a winding up of the company is commenced.

58. The fund manager shall, on the request of the trustee and within twenty-four hours, supply the trustee with such information concerning the management and administration of the scheme as the trustee may reasonably require.

Fund Manager to
supply information

59. (1) The fund manager shall keep such accounting and other records as may be necessary—

Maintenance of
records

- (a) to enable it to comply with these Regulations; and
- (b) to demonstrate at any time that such compliance by the fund manager has been achieved.

(2) After each valuation, to keep an up-to-date record of the participatory interests held by it, including the type of participatory interests, which have been acquired or disposed of, and of the balance of any acquisitions and disposals.

(3) The fund manager shall make the record available for inspection by the trustee or custodian at all times during ordinary office hours and shall supply the trustee or custodian with a copy of the record or any part of it on request.

60. (1) The fund manager shall, with the approval of the trustee, participants and Authority, appoint an auditor for the scheme who shall be a member of the Institute of Certified Public Accountants in Kenya in good standing.

External auditor

(2) The fund manager shall not change the fund manager's auditor without prior approval of the Authority.

(3) A person appointed as an auditor shall serve for a maximum period of four (4) consecutive years subject to satisfactory performance.

(4) The audit fees of the auditor shall be determined by the fund manager with the approval of the trustee.

(5) The fund manager shall ensure that the accounts required to be included in the annual report of the scheme are audited by the auditors and that, the report is accompanied by a report of the auditor to the participants that those accounts have been audited in accordance with International Standards on Auditing.

(6) The auditor shall assess the compliance status of the scheme and report any non-compliance to the trustee and the Authority.

(7) The fund manager may at any time, with the approval of the trustee and participants, at any time remove an auditor and this power exists notwithstanding anything in any agreement between the persons concerned.

(8) The fund manager shall notify the Authority of the removal of an auditor and that notice shall include the grounds for such removal.

61. (1) A trustee may remove a fund manager immediately or by three months' notice in writing to the fund manager, the unit holders and the Authority, as the case may be, if any of the following occurs—

Removal and
replacement of fund
manager

- (a) the fund manager goes into liquidation;
- (b) the fund manager is placed under administration;
- (c) the fund manager ceases to be a licensee of the Authority;
- (d) for good and sufficient reasons, the trustee is of the opinion, and so states in writing, that a change of fund manager is desirable in the interest of the participants; or
- (e) an extraordinary resolution of removing the fund manager is passed by three quarters majority in value of the participatory interests in existence (excluding participatory interests held or deemed to be held by the fund manager or by any associate of the fund manager) and the total number of participants.

(2) The fund manager shall on receipt of a notice under subregulation (1) cease to be the fund manager of the scheme and the trustee shall, by deed, appoint another person eligible under these Regulations to be the fund manager of the scheme upon and subject to that other person's entering into a deed or deeds as the trustee may require.

(3) A trustee shall ensure that upon service of the notice under subregulation (1), it shall immediately appoint a new fund manager for the scheme, subject to the approval by the unit holders and the Authority.

(4) If the name of the scheme contains a reference to the name of the former fund manager, the former fund manager shall be entitled to require the new fund manager and the trustee immediately to propose a change in the name of the scheme.

62. (1) A fund manager may resign by giving three months' notice to the trustee and shall give the reasons for the resignation.

Resignation of fund manager

(2) The trustee shall upon receipt of the notice of resignation by the fund manager in subregulation (1) and within the notice period find a replacement subject to the approval by the unit holders and the Authority.

(3) The trustee shall enter into agreements with the new fund manager in order to secure the due performance of its duties as fund manager.

63. (1) Upon the removal or retirement of the fund manager, the removed or retiring fund manager—

Rights of a removed or retired fund manager

- (a) remains entitled to all participatory interests held or deemed to be held by it;
- (b) may require the trustee to issue to it a certificate, where applicable, in respect of the participatory interests if not previously issued;
- (c) is to be registered in the register in respect of those participatory interests; and
- (d) thereafter has and may exercise all rights of a participant.

(2) Paragraphs (1)(b), (1)(c) and (1)(d) are subject to any restriction in the trust deed relating to the limited categories of participants.

Division C—Custodians

64. A collective investment scheme shall appoint a custodian licensed by the Authority for safekeeping of the scheme property.

Obligation to appoint a custodian

65. (1) A person shall not be eligible to be licensed and appointed as a custodian unless it is a bank licensed under the Banking Act or any other financial institution that demonstrates capacity and expertise in conducting custodial business and with—

Eligibility for licensing as custodian
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- (a) an initial and continuous paid-up capital of at least fifty million shillings; and
 - (b) a minimum liquid capital of twenty-five million or 8% of its liabilities which must be maintained throughout the duration of the license.
- (2) The appointment of a custodian shall be in writing.
- (3) The custodian shall perform its duties and obligations as contemplated in these regulations.

66. An application for a license shall be made in the manner set out in Form II of the First Schedule and shall be accompanied by the following—

Application to be a
custodian

- (a) certified copy of a valid license (if any) or certificate of incorporation;
- (b) articles of Association with objects that authorize the company to carry out custodial business;
- (c) audited financial statements for the preceding two years and six months unaudited, financial statements where relevant;
- (d) business plan;
- (e) details of the management structure;
- (f) shareholding structure detailing the number of shares, the percentage holding and including the ultimate beneficial shareholding of all corporate shareholders and any existing Trusts if applicable;
- (g) financial projections for three years;
- (h) description of the operating and Information Technology system in place or the system to be put in place once licensed;
- (i) details of the external Auditor;
- (j) details of the Company Secretary;
- (k) two letters of business reference and one letter of bank reference;
- (l) a risk management framework;
- (m) duly filled and executed Fit and Proper Form for directors and Head of Custodial Services; and

- (n) application fees as set out in the Seventh Schedule.

67. (1) The Authority shall, if satisfied that an applicant has met all the requirements for licensing and upon payment of the fees set out in the Seventh Schedule, grant the applicant a licence to operate as a custodian.

Grant of a license

(2) The custodian shall be required to pay an annual regulatory fee as set out in the Seventh schedule.

(3) A licence granted shall remain valid unless suspended or revoked by the Authority in accordance with section 26 of the Act.

68. (1) A custodian shall render custodial services in accordance with a written agreement between the custodian and the fund manager or trustee as the case may be.

Duties of a custodian

(2) The agreement shall include the following—

- (a) to maintain the custody of all the assets of the scheme;
- (b) to receive and keep in safe custody title documents and the assets of the scheme;
- (c) to open an account in the name of the collective investment scheme for the exclusive benefit of such scheme;
- (d) to transfer, exchange or deliver in the required form and manner securities held by it upon receipt of proper instructions from the fund manager or trustee as the case may be;
- (e) to require from the fund manager or trustee, such information as it deems necessary for the performance of its functions;
- (f) to promptly deliver to the trustee or fund manager or to such other persons as the fund manager or trustee may authorise, copies of all information the custodian may receive;
- (g) to exercise subscription, purchase or other similar rights represented by the securities subject to receipt of proper instructions from the fund manager;
- (h) to exercise the same standard of care that it exercises over its own assets in holding, maintaining, servicing and disposing of the collective investment scheme portfolio and in fulfilling obligations in the agreement;
- (i) where title to investments are recorded electronically, to ensure that entitlements are separately identified from

those of the fund manager or the trustee, as the case may be, of the collective investment scheme in the records of the person maintaining records of entitlement;

- (j) to attend general meetings of the participants and be heard at any general meeting on matters which concern it as custodian;
- (k) conflicts of interests and how such conflict shall be managed;
- (l) extent of the liability of the custodian; and
- (m) fees payable to the custodian for the custodial services which shall be disclosed to the participants in the annual report each year.

69. (1) A custodian must keep such books, records and statements as may be necessary to give a complete record of—

Records to be maintained by the custodian

- (a) the assets under management held by the custodian; and
- (b) each transaction carried out by the custodian on behalf of the collective investment scheme.

(2) The custodian shall permit the trustee, the fund manager or a duly authorised agent of the Authority to inspect such books, records and statements within the premises of the custodian at any time during business hours.

70. A custodian must provide to the fund manager or the trustee and to the Authority—

Reports by the custodian

- (a) a written statement at agreed reporting dates which lists all assets of the scheme in the scheme accounts together with a full account of all receipts and payments made and other actions taken by the custodian;
- (b) advice or notification of any transfers of collective investment scheme portfolio or securities to or from the scheme accounts indicating the securities acquired for the accounts and the identity of the party having physical possession of such securities;
- (c) a copy of the most recent audited financial statements of the custodian which include such information regarding the policies and procedures of the custodian as the fund manager, trustee or board of directors may request in connection with the agreement or the duties of the custodian under that agreement; and
- (d) an annual report demonstrating that compliance with these Regulations, the information memorandum, the

rules of the collective investment scheme and its service agreement has been achieved.

71. (1) A custodian shall not delegate to third parties any functions under these regulations except as provided in subregulation (2).

Delegation by
custodian

(2) The custodian may delegate its functions to third parties only where—

- (a) the tasks are not delegated with the intention of avoiding the requirements prescribed in these regulations;
- (b) the custodian can demonstrate that there is an objective reason for delegation; and
- (c) the custodian has exercised due skill, care and diligence in the selection and appointment of any third party to whom it intends to delegate parts of its tasks, and continues to exercise all due skill, care and diligence in the periodic review and ongoing monitoring of any third party to which it has delegated parts of its tasks and of the arrangements of the third party in respect of the matters delegated to it.

(3) A custodian may only delegate to a third party where that third party at all times during the performance of the tasks delegated to it—

- (a) has structures and expertise and approvals necessary for it to operate as a custodian;
- (b) segregates the assets of the sub-custodian's client from its own assets and from the assets of the principal custodian in such a way that they can, at all time, be clearly identified as belonging to the clients of a particular custodian;
- (c) takes all necessary steps to ensure that in the event of insolvency of the third party, assets of a collective investment scheme held by the third party in custody are unavailable for distribution among, or realisation for the benefit of creditors of the third party.

(4) The delegation of custodial authority to a sub-custodian does not relieve the custodian from any of its obligations to the collective investment scheme, the fund manager or to the Authority.

72. The custodian shall observe the provisions of Regulation 39 with respect to control of the assets of the scheme in the same manner as a trustee.

Control by the
custodian of the
property of the
scheme

73. The custodian must observe the provisions of Regulation 40 regarding the exercise of rights in respect of the assets of the scheme.	Exercise of rights in respect of the property of the scheme by custodian
74. The custodian must observe the provisions of Regulation 45 regarding conflict of interest in the same manner as the fund manager and trustee.	Conflict of interest
75. (1) A custodian shall be removed immediately in writing upon the happening of any of the following events—	Removal and replacement of a custodian
<ul style="list-style-type: none"> (a) liquidation of the custodian; (b) if a statutory manager or a receiver is appointed over any of its assets; or (c) the custodian ceases to carry on business as a bank or financial institution. 	
(2) A custodian shall be removed by three months' notice in writing given by the fund manager to the custodian if—	
<ul style="list-style-type: none"> (a) the custodian fails or neglects after reasonable notice from the fund manager, trustee or board of directors to carry out or satisfy any duty imposed on the custodian in accordance with their agreement; or (b) the participants, by extra ordinary resolution resolve that such notice be given, and the fund manager appoint as custodian some other qualified institution with the approval of the Authority. 	
(3) The fund manager shall notify the trustee and the Authority in writing of the termination of the services of the custodian giving reasons for such termination.	
(4) A custodian may resign by giving a three months' notice in writing to that effect to the board of directors or the fund manager, as the case may be and the Authority giving reasons for the resignation.	
(5) The fund manager shall appoint within two months after the date of a notice under subregulation (4) some other qualified person as the new custodian upon approval by the Authority and enter into an agreement with the new custodian.	
(6) If a fund manager is unable to appoint a new custodian within the period of two months following the notice of resignation—	
<ul style="list-style-type: none"> (a) the custodian shall be entitled to appoint an eligible person to be the new custodian subject to approval by the 	

fund manager, trustee or the board of directors as the case maybe and the Authority; or

- (b) the trustee shall hold the assets for three months with the approval of the Authority and within that timeframe cause an extra-ordinary general meeting of participants to be held to either to dissolve or transfer the unit holders to another fund.

(7) Within twenty days from the termination of the agreement, the custodian shall submit to the trustee, fund manager and Authority an audit report indicating the assets, liabilities and an inventory of the assets under management which have been handed over, transferred and delivered to the new custodian.

Division D—Intermediary Service Platform Providers

76. (1) Subject to subregulation (2), a person shall not operate an intermediary service platform unless that person has obtained a license from the Authority as an intermediary service platform provider.

Requirement for
licensing or approval

(2) An existing licensee seeking to operate an intermediary service platform for any other purpose other than improving the efficiency of existing processes shall be required to seek approval from the Authority and the Authority may require compliance with certain requirements under this part prior to granting the approval.

(3) A licensed intermediary service platform provider shall be required to seek approval from the Authority before engaging in marketing and distribution of collective investment schemes from multiple fund managers.

77. (1) An application for licensing as an intermediary service platform provider shall be accompanied by the following—

Eligibility
requirements and
Grant of a license

- (a) evidence of the entity's incorporation or establishment;
- (b) a written agreement with a licensed fund manager which shall at the minimum set out the following—
 - (i) roles to be played by the parties including their rights and duties;
 - (ii) extent of liabilities of the parties to the agreement;
 - (iii) dispute resolution mechanisms;
 - (iv) complaints handling procedures; and
 - (v) investor protection mechanisms;

- (c) a business plan detailing the nature of the service platform, how the platform will help delivery value to the capital markets and financial projections among others;
- (d) evidence of adequate capital, office and human resources necessary for the efficient conduct of its business and operations;
- (e) details of the organization structure and profiles of the directors, shareholders, management and other key personnel who are fit and proper as provided under section 24A of the Act;
- (f) detailed information of the platform to be used including system capacity and security measures, its user terms and condition and evidence of its functionality;
- (g) business continuity and disaster recovery plan;
- (h) record keeping procedures including audit trail for daily operations to meet emergencies;
- (i) adequate risk management framework that includes details of its fraud detection and prevention measures and a risk matrix and mitigation measures;
- (j) data protection policy in compliance with the relevant laws;
- (k) policy on prevention of anti-money laundering and terrorism financing;
- (l) cyber security policies and procedures;
- (m) complaint management policies and procedures that includes details on complaint lodging, acknowledgment and resolution;
- (n) risk management policies and procedures;
- (o) the licensing fees set out in the Seventh Schedule; and
- (p) any other additional documents or information as the Authority may require.

(2) The Authority shall, if satisfied that an applicant has met all the requirements for licensing and upon payment of the fees set out in the Seventh Schedule, grant a licence to operate as such.

(3) The intermediary service platform provider shall be required to pay an annual regulatory fee as set out in the Seventh schedule.

(4) A licence granted shall remain valid unless suspended or revoked by the Authority in accordance with section 26 of the Act.

78. An intermediary service platform provider shall make the following disclosures to its users—

Disclosure
obligations

- (a) features and characteristics of the intermediary service platform;
- (b) the nature of the partnerships with the licensed fund manager(s);
- (c) accurate description of its services;
- (d) fees charged for using the platform and any other fees including transaction charges;
- (e) data protection and privacy policy;
- (f) risk disclaimers;
- (g) alternative methods for transacting;
- (h) procedures for withdrawals;
- (i) processing of online applications, suspension and cancellation of transactions;
- (j) account opening procedures;
- (k) redemption and conversion of units; and
- (l) any other disclosure as may be necessary and as may be required by the Authority.

79. An intermediary service platform provider shall—

Due diligence, data
security,
confidentiality and
integrity

- (a) establish appropriate safeguards for ensuring the integrity of the information received and processed through their platform;
- (b) maintain reliable and secure operating systems;
- (c) keep copies of all relevant documents for a reasonable period after the date on which the document comes into the possession of their portal;
- (d) ensure confidentiality and privacy of information;
- (e) have a call center or establish electronic channels for addressing customer enquiries and complaints;

- (f) maintain a robust cyber security framework; and
- (g) exercise due skill, care and diligence in monitoring any function outsourced from external service providers to ensure proper performance of the intermediary service platform.

80. (1) An intermediary service platform provider shall keep and maintain the necessary records to enable it to comply with these Regulations and to demonstrate at any time that such compliance by it has been achieved including—

Maintenance of records

- (a) comprehensive documentation on the design of digital platform, operational processes, and risk management controls;
- (b) proper audit trails of activities and transactions conducted on the platform, including the processes and outcomes of any client profiling, investment product selection, risk profiling, suitability assessment, product information, disclosure of warning statement, advice provided (if any), and incident reports for all material delays or failures of the platform; and
- (c) any other records as may be prescribed by the Authority.

(2) An intermediary service platform provider shall permit the fund manager or a duly authorised agent of the Authority to inspect its platform and such books, records, or and any other document at any time during business hours.

81. An intermediary service platform provider shall submit quarterly reports to the Authority on such information as the Authority may advise depending on the nature of the partnerships with a licensed fund manager.

Reporting requirements

82. An intermediary service platform provider shall seek approval from the Authority of any advertisement or invitation or other promotional material to the public or a section of the public at least forty-eight hours before the date of publication.

Marketing materials

83. An intermediary service platform provider is prohibited from—

Prohibitions

- (a) holding clients' funds;
- (b) offering investment advice in whichever form;
- (c) sharing clients' data with non-affiliated third parties; and
- (d) engaging in any other activity not allowed under the license category.

84. An intermediary service platform provider may cease to operate as such upon giving a three months' notice to the Fund Manager and to the Authority stating reasons for the cessation and setting out the procedure and timelines for transition of its users.

Cessation to operate

PART VI—PRICING AND DEALING

85. (1) Where a fund manager is required to issue new participatory interests, the fund manager shall create the participatory interests subject to approval by the trustee.

Allocation of
participatory
interests

(2) The participatory interests shall be created within twenty-four (24) hours from the time the obligation arose.

86. (1) Where a fund manager wishes participatory interests to be cancelled, it may at any time instruct the trustee to cancel them and any instructions given by the fund manager shall state, in relation to each type of participatory interest to be cancelled, the number to be cancelled, expressed either as a number of participatory interests or as an amount in value, or as a combination of the two.

Cancellation of
participatory
interests

(2) Where, at any moment of instruction, the fund manager has any outstanding obligation to issue participatory interests, it may not instruct the trustee to cancel any participatory interests if or to the extent that in so doing would prevent it immediately from fulfilling any such obligation which had been assumed before the valuation point.

(3) A trustee must cancel participatory interests on receipt of instructions given by the fund manager, and the trustee may not cancel participatory interests in any other way.

(4) On the cancellation of participatory interests and on delivery to the trustee of such evidence of title to those participatory interests as he or she may reasonably require, the trustee shall instruct the custodian to pay the cancellation price of the participatory interests to the person who was the owner of those participatory interests within three days.

87. (1) Where, on receipt of instructions to create or cancel participatory interests, the trustee is of the opinion that it is not in the interests of participants that—

Refusal to create or
cancel participatory
interests

- (a) participatory interests should be created;
- (b) participatory interests should be cancelled; or
- (c) participatory interests should be created or cancelled in the number requested by the fund manager,

the trustee must give notice to the fund manager stating that the trustee refuses to create or as the case may be cancel all or a specified number of the participatory interests so requested.

(2) On the giving of notice under subregulation (1), the trustee is relieved of the obligation to create or cancel the number of participatory interests to which the notice relates.

88. (1) The number of participatory interests issued or cancelled may be modified by the fund manager making a record for the scheme of the modification provided that—

Modification to
participatory
interests issued or
cancelled

- (a) the fund manager ensures that any appropriate consequential payment as between the fund manager and the scheme is made; and
- (b) the requirements of subregulation (2) are satisfied.

(2) A fund manager may only make a modification under subregulation (1) with the agreement of the trustee if the trustee is reasonably satisfied—

- (a) that the purpose of the modification is to rectify the consequences of an error which relates to the number of participatory interests held by the fund manager, or issued or cancelled in connection with the sale or redemption of participatory interests by the fund manager; and
- (b) that in view of the quality of the fund manager's controls systems, the circumstance that resulted in the error in question is an isolated one and is unlikely to recur.

(3) A modification under subregulation (1) shall be of no effect unless the corrected number of shares is calculated by the end of the next business day following the relevant valuation point, or, if the trustee agrees, within the payment period applicable to the original issue or cancellation under regulation 86.

89. (1) A fund manager must at all times during a dealing day, be willing to issue participatory interests in the scheme and it must at the request, in writing, of any person, agree to issue participatory interests to that person at a price arrived at under these Regulations.

Fund manager's
obligation to issue

(2) Subregulation (1) does not apply—

- (a) if the fund manager has reasonable grounds, relating to the circumstances of the person concerned, for refusing to issue participatory interests to him or her;
- (b) if the number or value of the participatory interests sought to be issued is less than any number or value stated in the information memorandum as the minimum number or value to be purchased or held;
- (c) if the fund manager has not received payment with or prior to the order; or

- (d) if the fund manager has reason to believe that the potential purchaser has not seen or been offered a copy of the latest information memorandum and the last annual report, performance report and the current fees schedule in addition to any other document as requested by the potential purchaser.

90. (1) A fund manager's price for issue of participatory interests shall not exceed the price to be notified to the trustee at the next valuation point. Issue price

(2) In the event that a fund manager imposes a preliminary charge, this may be added to the cost when issuing the contract note to a participant.

91. (1) A fund manager must at all times during a dealing day be able to redeem participatory interests in the scheme and accordingly, must at the request in writing of any participant agree to redeem participatory interests owned by that participant at a price arrived at under these Regulations. Fund manager's obligation to redeem

(2) Subregulation (1) does not apply—

- (a) where the number or value of the participatory interests sought to be redeemed is less than any number or value stated in the information memorandum as the minimum number to be redeemed;
- (b) where the number or value of the participatory interests sought to be redeemed would result in the participant holding less than any number or value stated in the information memorandum as the minimum number to be held; or
- (c) where the fund manager ensures that the participant is able to sell his or her participatory interests on a securities exchange at a price not significantly different from the price at which they would have been redeemed;

(3) Participatory interests must be redeemed in the base currency in which it was issued.

(4) This regulation is subject to Part XIII on suspension and termination.

92. (1) On agreeing to redeem participatory interests, the fund manager shall, within three days, pay the proceeds of redemption less, where applicable— Payment on redemption

- (a) any redemption charge to the participant; and
- (b) any applicable levy or tax imposed by law.

(2) Nothing in this regulation shall require a fund manager to part with money in respect of a redemption of participatory interests where it has not yet received the money due on the earlier issue of those participatory interests, or where it considers it necessary or appropriate to carry out or complete identification procedures in relation to the participant or another person pursuant to a statutory obligation.

93. (1) A fund manager's price for redemption of participatory interests shall not be less than the price notified to the trustee at the previous valuation point.

Redemption price
parameters

(2) Where a fund manager levies an exit charge, this may be deducted from the proceeds when issuing the confirmation note to the participant.

(3) In the case of an umbrella fund, the maximum price at which participatory interests in one constituent part may be held in exchange for participatory interests in another such part shall not exceed the relevant maximum issue price, less any preliminary charge, of the new participatory interests and the minimum price at which the old participatory interests may be taken in exchange shall not be less than the equivalent minimum redemption price.

94. (1) Where the incorporation documents so permits, the amount payable as proceeds of redemption may be arrived at after deduction of a charge for the benefit of the fund manager.

Charges on
redemption

(2) Where the fund manager is permitted to make a deduction, the amount shall not exceed the amount that would be derived by applying the rate or method prescribed in the information memorandum at the date on which the relevant participatory interests were issued.

(3) Where the incorporation documents of a scheme, whenever executed, are modified so as to include the provision enabled by paragraph 13 of Second Schedule of the Regulations, to deduct a charge on redemption, the modification must be expressed so as to apply only to participatory interests issued after the date on which the modification takes effect.

(4) A modification of the rate or method which is adverse to redeeming participatory interest, holders must be limited so as to apply only to participatory interests which have been issued, whether at the request of the current participatory interest holder or otherwise, after the date on which the modification takes effect.

(5) Subject to regulation 95, the fund manager may not rely on any increase in the rate or method of the charge, unless —

- (a) it has given notice in writing of that increase and of the date of its commencement to the trustee and to all the persons who ought reasonably to be known to him or her to have made an arrangement for the purchase of participatory interests at regular intervals;
- (b) he or she has revised the information memorandum to reflect the new rate or method and the date of its commencement; and
- (c) approved by the holders of the participatory interest.

(6) In deciding whether and to what extent a charge is deductible for the purposes of this regulation, participatory interests held by a participant are to be taken to be redeemed in the order in which they were issued (whether at the request of the current holder or otherwise), unless—

- (a) the fund manager has the participant's instructions to the contrary;
- (b) the fund manager selects as the participatory interests first to be redeemed, participatory interests which are not subject to the deduction; or
- (c) the fund manager and the trustee have agreed on another way of deciding the order in which participatory interests are redeemed, which appears to them unlikely materially to prejudice the holder concerned.

(7) For purposes of subregulations (3) and (6), where a scheme has absorbed the whole or part of the property of an earlier scheme, the term "issued", for the purposes of calculating the applicable charge refers to the date on which participatory interests in the earlier scheme were issued in so far as it is practicable for the fund manager to ascertain the timing of that issue in relation to the issue of other participatory interests held by that participant.

(8) Nothing in this regulation shall enable the fund manager to reduce the amount payable to the client on redemption to an extent which might reasonably be regarded as fettering the right of redemption.

95. (1) No introduction of, or change to, either of the charges permitted by regulation 90 shall take effect unless the trust deed is modified under regulation 150 or, as the case may be, the information memorandum is amended following approval of the introduction or change by an extraordinary resolution at a meeting of the holders called for the purpose where in respect of any individual participatory interest notionally issued and redeemed on the same day the maximum amount or percentage of any preliminary charge and of any charge on redemption would, in aggregate, exceed the

Control over
maximum charges on
issue and redemption

maximum amount or percentage for the preliminary charge alone which is stated in the incorporation documents.

96. In the case of an umbrella fund, the fund manager may not make any charge on an exchange of participatory interests—

Exchange of
participatory
interests in umbrella
funds

- (a) where the exchange is the first to be made by the participant during any annual accounting period; or
- (b) in the case of a second or subsequent exchange, unless such a charge is authorised by the incorporation documents and the amount of charge is within the maximum for charging on such an exchange stated in the most recently published information memorandum.

97. (1) By the close of business of the trustee on the dealing day, the fund manager shall notify the trustee of—

Notification of prices
to the trustee

- (a) the creation price;
- (b) the cancellation price;
- (c) the issue price;
- (d) the redemption price;
- (e) in the case of an umbrella fund, the issue price for participatory interests in any part on an exchange of participatory interests.

(2) The prices to be notified under subregulation (1) are those relevant to deals based on prices determined at that valuation point.

(3) Any notification under subregulation (1) shall include a statement of the number of participatory interests owned by the fund manager at that valuation point.

98. (1) Any instruction, notification given or report supplied under this Part by the fund manager to the trustee and custodian—

Instructions by fund
manager to the
trustee and custodian

- (a) must be recorded by the fund manager, at the time when it is given or supplied;
- (b) must be sent in a form which enables the trustee or custodian to know or record the time of receipt; and
- (c) may be communicated in writing.

(2) Instructions are given within any period under this Part if they are received by the trustee and or custodian within the period,

and instructions received by the trustee or custodian after the expiry of any period are treated as given after that expiry.

(3) This regulation also applies, with the necessary modifications, to any notice or notification given by either party.

PART VII—VALUATION

99. Collective investment scheme investments shall be valued in accordance with the following overarching principles so as to ensure fair treatment of all existing participants and prospective investors—

Valuation of the
assets of the scheme

- (a) the valuation shall be reflective of the realisable value of the securities and/or assets
- (b) the valuation shall be done in good faith and in a true and fair manner through appropriate valuation policies and procedures;
- (c) the policies and procedures developed by the fund manager and agreed to by the trustee on behalf of the collective investment scheme shall identify the methodologies that will be used for valuing each type of securities or assets held by the collective investment scheme;
- (d) the valuation policies and procedures approved by the fund manager and the trustee on behalf of the collective investment scheme should seek to address conflicts of interest;
- (e) the fund manager should conduct initial and periodic due diligence on third parties that are appointed to perform valuation services;
- (f) the valuation policies, methodologies and procedures, including the nature and frequency of valuation points, developed by the fund manager and approved by the trustee shall be made available to the participants;
- (g) the responsibility for true and fair valuation and correct net asset value shall be with the fund manager and the trustee.
- (h) the policies and procedures agreed to by the fund manager and the trustee shall make provision for the detection, prevention and correction of pricing and valuation errors; and

- (i) documentation for the rationale of valuation including into scheme transfers shall be maintained and preserved by the fund manager to enable audit trail.

100. (1) A fund manager must ensure that the price of a participatory interest is calculated by reference to—

Valuation
methodology

- (a) the net value of the assets under management; and
- (b) in accordance with the provisions of the incorporation documents.

(2) For all participatory interests in the same class, a single price must be calculated at which participatory interests are to be issued and cancelled.

(3) Assets under management of a scheme shall be valued daily or in such periodic intervals as may be set out in the Information Memorandum in accordance with the definition of fair value as set out in the relevant International Financial Reporting Standards on valuation.

(4) Where the fund manager has historical price or preliminary estimated value as fair value, the firm shall—

- (a) consider it to be the best approximation of the current fair value; and
- (b) assess the difference between the approximation and final value and the effect on assets under management, performance and also make any adjustments when the final value is received.

(5) External valuations for real estate investments shall be performed by an independent registered property valuer and shall be done at least once annually and the valuation report shall be submitted to the Authority.

101. (1) Where during a dealing period, a scheme experiences inflows or outflows as a result of sales or redemptions of participatory interests in excess of a predetermined level as set out in the formation documents, the fund manager shall be entitled to raise an anti-dilution levy, calculated on the basis of subregulation (2), on the investors buying or selling participatory interests in the scheme.

Resolution of the
dilutive effect

(2) The fund manager shall determine the scheme's average expenses such as commission, fiscal and other fees for buying or selling underlying securities during the dealing period and levy the buyers or sellers accordingly.

(3) The levy raised under subregulation (2) shall be paid into the scheme for the benefit of the participants who neither purchased nor redeemed participatory interests during the dealing period.

(4) A fund manager shall make a daily record of the participatory interests in the scheme held, acquired or disposed of by the fund manager, including the types or classes of such participatory interests and of the balance of any acquisitions and disposal and retain such record for a period of seven years from the date each record is made.

1 A fund manager shall make a daily record of how the anti-dilution is calculated and retain such record for a period of seven years from the date each record is made.

PART VIII—INVESTMENT POWERS

102. (1) In establishing the different funds, a scheme shall be guided by the following criteria on composition of the funds—

Composition of
funds

- (a) Money Market Fund: Invests only in interest-earning money market instruments which have a maximum weighted average tenor of eighteen months and includes credit rated or guaranteed commercial papers, Government securities, call deposits, certificate of deposit including fixed deposits in commercial banks and deposit taking institutions and any other like instruments as specified by the Central Bank of Kenya from time to time;
- (b) Equity Fund: The fund shall invest a minimum of sixty per cent of the market value of its asset under management in equities listed locally on a securities exchange, listed in other regulated exchanges or unlisted equities at all times. Any funds not invested in equities shall only be invested in cash and cash equivalents;
- (c) Fixed Income Fund: The fund shall invest a minimum of sixty per cent of the market value of its asset under management in fixed income securities at all times. Any funds not invested in fixed income instruments shall only be invested in cash and cash equivalents. Fixed-income securities refer to financial instruments with a fixed maturity and may or may not make periodic payments of interest and the principal is paid at maturity;
- (d) Balanced Fund: The fund shall invest in all eligible asset classes at all times provided that investments in money market, equities and fixed income instruments shall each have a maximum exposure of sixty per cent of the market value of assets under management; and

Provided that—

- (i) investments in unlisted securities in East African Community partner states shall be up to a maximum of ten per cent of Assets Under Management;
 - (ii) a fund may invest in a money market fund or another fund of similar constituent assets subject to a maximum limit of up to twenty per cent;
 - (iii) investments in off-shore listed securities shall be a maximum of ten per cent of Assets under Management;
 - (iv) investments in off-shore unlisted securities shall be a maximum of five per cent of Assets under Management;
 - (v) other alternative investments to a maximum of ten per cent where applicable;
 - (vi) the market value of an investment in an interest-bearing account, financial product or instrument of or issued by any single bank or financial institution or insurance company or a combination of any such investment in a single bank, financial institution or insurance company shall not in aggregate exceed twenty-five per cent of the Assets under Management;
 - (vii) the market value of a collective investment scheme's holding of securities relating to any single issuer shall not exceed twenty-five per cent of the collective investment scheme's properties Assets under Management;
 - (viii) investment in a related company shall be limited to ten per cent of the Assets under Management; and
 - (ix) no assets under management in any of the funds provided in paragraphs (a), (b), (c) or (d) may be leveraged.
- (e) Special Funds- these shall be based on the fund managers' investment strategy in the investment policy statement which shall be clearly described in the information memorandum to be approved by the Authority on a case-by-case basis subject to continuous disclosures to investors:

Provided that—

- (i) the market value of an investment in an interest-bearing account, financial product or instrument of any single bank or financial institution or insurance company or a combination of any such investment in a single bank, financial institution or insurance company shall not in aggregate exceed twenty-five per cent of the assets under management;
- (ii) investment in alternative investments be at a maximum of eighty per cent;
- (iii) the portfolio may be leveraged to a ratio to be determined by the fund manager and such ratio and stop loss measures shall be disclosed in the information memorandum and the investment policy statement;
- (iv) investment in a related company shall be limited to twenty-five per cent of the Assets under Management; and
- (v) minimum investment of one hundred thousand shillings for each investor and maintenance of the same throughout the duration of the investment save for where the value may decline due to market fluctuations.

(2) Notwithstanding subregulation (1), the assets under management may consist of cash and cash equivalents, where this may reasonably be regarded as necessary in order to enable—

- (a) redemption of participatory interests;
- (b) efficient management of the scheme in accordance with its objectives; or
- (c) other purposes which may reasonably be regarded as ancillary to the objectives of the scheme.

(3) A scheme may only participate in an underwriting or accept placings if the same is—

- (a) disclosed in the formation documents; and
- (b) approved by the trustee.

103. (1) Subject to this Part, the property of a scheme may comprise of any assets, the holding of which is consistent with the relevant category of scheme.

Investment powers

(2) The offer documents may restrict—

- (a) the descriptions of assets in which the property of the scheme may be invested;

- (b) the proportion of the capital property of the scheme to be invested in assets of any description; or
- (c) the descriptions of transactions permitted,

and any such restrictions shall be observed as if they were included in this Part.

104. (1) Subject to subregulation (2), each of the separate parts of an umbrella fund shall be invested as if it were a single scheme.

Umbrella funds

(2) A sub fund of an umbrella fund may invest in participatory interests of another sub-fund of the same umbrella fund.

105. (1) Except as provided under the Capital Markets (Securities Lending and Borrowing and Short Selling) Regulations, 2017, the assets of the scheme may not be lent or used as collateral to cover any transaction.

*Securities lending and derivatives
L.N. 295/2017*

(2) The assets of the scheme may include derivative instruments to the extent that they are required for hedging purposes only.

(3) For a collective investment scheme to be able to engage in securities lending and to enable prospective holders of participatory interests to make informed decisions, its incorporation documents shall disclose—

- (a) its intention to lend the securities belonging to the collective investment scheme;
- (b) its investment policy with regard to securities lending; and
- (c) the market risks associated with securities lending transactions such as loss, insolvency etc.

(4) The fund manager of a collective investment scheme may engage in a securities lending transaction as a lender on behalf of the collective investment scheme, if the securities lending transaction is in compliance with the key investor information document statement of the collective investment scheme and the liquidity requirements of the collective investment scheme.

(5) The securities lending transaction must be undertaken in a safe and prudent manner and in accordance with the lending policies and procedures that are approved by the fund manager, trustee or board of directors of the collective investment scheme to provide additional income or fees for the benefit of the collective investment scheme.

(6) The fund manager of the collective investment scheme must ensure that controls and procedures relating to such securities lending transactions are comprehensive and sound.

106. (1) A collective investment scheme shall not lend any of the money in the property of the scheme.

Restriction on
lending of money
and property

(2) Purchasing a debenture is not lending for the purposes of subregulation (1), nor is the placing of money on deposit or in a current account.

107. None of the assets of a scheme may be used to discharge any obligation arising under a guarantee or indemnity given by the fund manager or trustee with respect to the obligations of a third party.

Guarantees and
indemnities

108. No agreement on behalf of a scheme to dispose of property may be made by the fund manager or trustee unless—

Requirement to
cover sales

(a) that obligation, and any other similar obligation, could immediately be honored by the scheme by delivery of property or the assignment of rights; and

(b) the property and rights are owned by the scheme at the time of the agreement.

109. A fund manager shall on behalf of a scheme not enter into short selling transactions on a securities exchange except as provided in the Capital Markets (Securities Lending and Borrowing and Short Selling) Regulations, 2017, and the fund manager complies with the requirements thereof.

Short selling
L.N. 295/2017

PART IX—REGISTER, TITLE AND TRANSFER

110. (1) A fund manager shall be responsible for establishing and maintaining a register of participants in accordance with these Regulations.

The register

(2) The register shall be maintained in a legible form.

(3) There shall be entered in the register—

- (a) the name and address of each participant;
- (b) the number of participatory interests of each type held by each such participant;
- (c) the date on which the holder was registered in the register in respect of the participatory interests standing in his or her name;

- (d) the number of participatory interests of each type for the time being in issue and represented by investment certificates and the numbers of those certificates; and
- (e) any other information as the fund manager may deem important.

(4) The fund manager must take all reasonable steps and exercise all due diligence to ensure that the information contained in the register is at all times complete and up to date.

(5) Pursuant to subregulation (4), the fund manager shall, in particular, take such steps as are necessary to obtain and supply information from or concerning any new holder of participatory interests to enable the entry in the register to be made.

(6) Nothing in this Part requires the fund manager to make or alter any entry in the register or to issue any certificate or other document or to accept any transfer or conversion in any case where it considers it necessary or appropriate to carry out or complete identification procedures in relation to the participant or another person pursuant to a statutory obligation.

111. (1) The register shall be conclusive evidence as to the persons respectively entitled to the participatory interests entered in it.

The register as evidence of title

(2) No notice of any trust, express, implied or constructive, which may be entered in the register in respect of any participatory interest shall be binding on the fund manager or the trustee.

112. (1) The register shall be available for inspection by or on behalf of the participants in Kenya at all times during ordinary office hours except that the register may be closed at such times and for such periods, not exceeding 30 days in any one year, as the fund manager may, from time to time, determine.

Inspection of the register and copies of entries

(2) The fund manager shall supply to a participant or its authorized representative at his or her request, a copy of the entries in whatever form on the register, relating to that participant.

(3) The fund manager shall state in scheme documents, the place and times where the register may be inspected, or authorized copies obtained.

113. On or following the issue of participatory interests and subject to regulation 111, at any other time, a document recording title to the participatory interests may be issued to the participant if, and in such form, as the fund manager decides, having regard to any requirement of these Regulations.

Fund Certificates.

114. (1) Subject to subregulation (2), every participant shall be entitled to transfer participatory interests held by him or her in respect of which he or she is entered in the register by an instrument of transfer in any usual or common form or in such other lawful form as the fund manager may from time to time approve.

Transfer of
participatory
interests by act of
parties

(2) The fund manager is not under any duty to accept a transfer—

- (a) if the number or value of the participatory interests sought to be transferred would result in the participant, or the transferee, holding less than any number or value stated in the scheme documents as the minimum number to be held; or
- (b) if the scheme documents contain a limitation upon the categories of persons who may be a participant and the transferee is not within one of those categories.

(3) Every instrument of transfer of participatory interests shall be signed by or on behalf of the participant transferring the participatory interests or, in the case of a body corporate, duly executed pursuant to its incorporation documents and, unless the transferee is the fund manager, the transferor shall be deemed to remain the participant until the name of the transferee has been entered in the register.

(4) Every instrument of transfer, duly stamped if it is required to be stamped, must be left for registration accompanied by—

- (a) any necessary declarations or other documents that may be required in consequence of any legislation now or from time to time in force; and
- (b) such other evidence as the fund manager may require to prove the right of the transferor to transfer the participatory interests or, in the case of a body corporate, the authority of the signatory on its behalf.

(5) All instruments of transfer which shall be registered shall be retained by the fund manager in original copy or digital form for a minimum period of seven years.

(6) Upon registration of an instrument of transfer, a reference shall be made on the register enabling the name of the transferor and the transferee and the date of transfer to be identified.

115. (1) Upon the death of any one of the joint holders of any participatory interests, the survivor or survivors shall be the only persons recognised by the fund manager as having any title to or any interest in the participatory interests held by such joint holders.

Transfer of
participatory
interests by operation
of law

(2) The executors or administrators of a deceased holder of participatory interests, not being one of two or more joint holders, shall be the only persons recognised by the fund manager as having title to the participatory interests held by the deceased holder.

(3) Where any person becomes entitled to a participatory interest in consequence of the death or bankruptcy of any sole holder of participatory interests, or of the survivor of joint holders—

- (a) he or she may, subject to paragraph (b), upon producing such evidence as to his or her title as the fund manager may properly require, either be registered himself or herself as holder of the participatory interest upon giving to the fund manager notice in writing that he or she so desires or transfer the participatory interest to some other person;
- (b) the provisions concerning transfer of participatory interests shall be applicable to any such notice or transfer of the participatory interest, but such person shall not, until registered as holder, be entitled to receive notices or attend or vote at any meeting of holders;
- (c) subject to paragraph (d), the new participant may give a discharge for all monies payable in respect of the participatory interest, but shall not, until registered as a participant, be entitled to receive notices or attend or vote at any meeting of participants; and
- (d) the fund manager may retain any monies payable in respect of the participatory interest until the new participant is registered as the holder of the participatory interest or duly transfers the participatory interest.

116. (1) The fund manager shall—

Change of name and
address of participant

- (a) upon receipt of notice in writing of a change of name and the related legal documentation or change of address of any participant;
- (b) upon being satisfied of the change of name or address referred to in paragraph (a); and
- (c) on compliance with such formalities as the fund manager may require, alter the register accordingly.

(2) Where a certificate has been issued and remains valid and the name of the participant is altered in the register, the fund manager

shall either issue a new certificate to the participant or make an appropriate endorsement on the participant's existing certificate.

117. (1) The fund manager may, unless expressly forbidden to do so by the incorporation documents, at any time, with the approval of the trustee, determine—

Subdivision and consolidation of participatory interests

- (a) that each participatory interest shall be subdivided into two or more participatory interests whereupon each participatory interest shall stand subdivided accordingly; or
- (b) that two or more participatory interests shall be consolidated whereupon those participatory interests shall stand consolidated.

(2) Upon a subdivision or consolidation of participatory interests, the fund manager shall immediately notify each participant entered in the register, of the subdivision or consolidation.

118. Where—

Default by participant

- (a) the participant of any participatory interests defaults in making any payment in money or a transfer of property due to the fund manager, or trustee under these Regulations, or the incorporation documents, in respect of the creation and issue or the re-issue of participatory interests to that participant; and
- (b) the fund manager is satisfied that there has been such a default by such evidence furnished to the fund manager as the fund manager shall require,

the fund manager may make any necessary deletion or alteration in the register.

PART X—CHARGES, EXPENSES, PAYMENTS AND BENEFITS TO FUND MANAGER AND TRUSTEE OR CUSTODIAN

119. (1) A fund manager shall develop policies and procedures which govern the levying of fees, charges and expenses in accordance with the methodology set out in the incorporation documents.

Charges

(2) The policies and procedures in subregulation (1) shall be approved by the trustee or the board of directors prior to implementation.

(3) The fund manager of a collective investment scheme shall disclose its historical fees at least for the last twenty-four months where applicable.

(4) The fund manager shall disclose the current fee schedule and the calculation methodology in the incorporation documents to current and prospective participants including all performance-based fees and expenses.

120. (1) No payment may be made to the trustee or custodian out of the property of the scheme, whether by way of reimbursement of expenses or otherwise, except—

Remuneration of the trustee or custodian and reimbursement of expenses

- (a) remuneration for the trustee and custodian in respect of its services and in respect of which the following have been stated in the incorporation documents and information memorandum—
 - (i) the actual amount or rate of the remuneration;
 - (ii) the periods in respect of which the remuneration is to be paid;
 - (iii) how the remuneration is to accrue; and
 - (iv) when the remuneration is to be paid;
- (b) reimbursement of expenses properly incurred by the trustee or custodian in performing or arranging for the performance of the functions conferred on the trustee or custodian by these Regulations.

(2) Subregulation (1)(a)(i) may be taken to be complied with if the information memorandum contains—

- (a) the maximum amount or rate of the remuneration which may become payable to the trustee or custodian; and
- (b) an explanation as to how the actual amount or rate is to be determined, including the mathematical basis and the relevant factors involved.

(3) Payment regarding services may be made under subregulation (1)(a), only if authorized by the trust deed.

121. (1) No payments may be made out of the property of the scheme other than payments under Part XI and sums due by virtue of any other provision in these Regulations and the following—

Other payments out of the property of the scheme

- (a) broker's commission, fiscal charges and other disbursements which are—
 - (i) necessary to be incurred in effecting transactions for the scheme; and

- (ii) normally shown in contract notes and confirmation notes as appropriate;
- (b) interest on borrowings permitted under the scheme and charges incurred in effecting or terminating such borrowings or in negotiating or varying the terms of such borrowings;
- (c) taxation and duties payable in respect of the property of the scheme, the incorporation documents or the issue of participatory interests; and
- (d) any costs incurred in modifying the incorporation documents, including costs incurred in respect of meetings of participants convened for purposes which include the purpose of modifying the trust deed, where the modification is—
 - (i) necessary to implement, or necessary as a direct consequence of any change in the law, including changes in these Regulations;
 - (ii) expedient having regard to any change in the law made by or under any fiscal enactment and which the fund manager and the trustee or custodian agree is in the interest of participants; or
- (iii) to remove from the deed, obsolete provisions;
- (e) any costs incurred in respect of meetings of participants convened on a requisition by participants not including the fund manager or an associate of the fund manager; and
- (f) liabilities arising on unitization, amalgamation or reconstruction;
- (g) the audit fee properly payable to the auditor and any value added tax on it and any proper expenses of the auditor; and
- (h) the scheme fees of the Authority.

(2) In a case where the property of a scheme (transferor) is transferred to another scheme (transferee) in consideration of the issue of participatory interests in the transferee to participants of the transferor, the trustee or custodian may pay out of the property of the transferee, any liability arising after the transfer which had it arisen before the transfer, could properly have been paid out of the transferred property.

(3) The trustee may only make the payments in subregulation (2) if—

- (i) there is nothing in the incorporation documents of the transferor expressly forbidding the payment; and
- (j) the trustee is of the opinion that proper provision was made by the transferor for meeting such liabilities as were known or could reasonably have been anticipated at the time of the transfer.

(4) Other payments may be made from the property of the transferor provided that they are authorized, reflected and disclosed in transferee's incorporation documents.

PART XI—PERFORMANCE AND MEASUREMENT REPORTING

122. (1) A fund manager shall prepare and submit to the Authority a performance measurement report on a quarterly basis. Performance
Reporting

(2) The performance measurement report shall be submitted within twenty-one (21) days after the end of each quarter and shall be made available to all existing and prospective investors.

(3) The performance measurement report shall include updated performance and performance related information on general areas of investment for the selected fund, including correction of material errors if any. At the minimum, the disclosure shall include the specific errors identified, the impact of the errors, the values before and after correction of the error and the measures to prevent recurrence. In this context an error is considered material if it results in an impact equal to or greater than ten per cent of the net asset value of the assets under management.

(4) The fund manager shall calculate and present time-weighted returns for each fund.

(5) The fund manager shall not link actual performance to historical, theoretical performance or prospective performance.

(6) The fund manager shall not present performance or performance-related information that is false or misleading.

(7) In addition to the actual return for a given quarter, the fund manager shall also present total returns according to at least one year, three year and five-year annualized returns through the most recent period.

(8) The fund manager shall present in each collective investment scheme fund performance report—

- (a) the collective investment scheme returns for each quarterly period;
- (b) when the initial period is less than one quarter, the return from the collective investment scheme from the inception date through the end of that quarter;
- (c) the inception date for each fund;
- (d) the return from the end of the last quarterly period through the termination date, if the fund is terminated;
- (e) the total return for the benchmark for each quarterly period where applicable;
- (f) for all other periods for which fund returns are presented, where applicable;
- (g) total Assets under Management under the collective investment scheme as at the end of the reporting quarter; and
- (h) the fund expense ratio appropriate to prospective investors where the fund expense ratio shall be computed as all fund expenses for the period including performance fees divided by the closing assets under management for the period.

(9) All information in the collective investment scheme performance report shall be presented in the same currency.

(10) The fund manager shall present proprietary assets as a percentage of the collective investment scheme fund assets as at the end of each quarter.

(11) For funds which invest predominantly in real estate, the fund manager shall present collective investment scheme fund and benchmark component selected by the fund manager returns for all periods presented.

(12) The fund manager shall disclose all material events that would help a prospective investor interpret the collective investment scheme performance report.

(13) The disclosure shall be included for a minimum of one year and for as long as it is relevant to interpreting the track record. In this context, a material event is any occurrence or information that has the potential to affect the perceived performance of the funds, whose details should be well elaborated for full disclosure of the potential impact.

(14) In presenting the collective investment scheme returns, total assets under management and the fund expense ratio, the fund manager shall include comparable figures from the immediate previous period.

123. (1) In the determination of total assets under management, the total assets of a collective investment scheme shall —

Performance
calculation.

- (a) be the aggregate fair value of all assets and the assets shall not be double counted; or
- (b) be actual assets managed by the fund manager of the collective investment scheme including both fee-paying and non-fee-paying portfolios; and include assets where the fund manager has outsourced the management of the assets to another fund manager.

(2) Collective investment scheme performance shall be calculated using only actual assets managed by the fund manager.

(3) Returns for periods of less than one year shall not be annualized.

(4) The fund manager shall report returns that are net of all fees charged against the fund including transaction costs (cost of buying and selling, investment-brokerage fees, taxes, and exchange fees), and fund management fees and administrative costs (including audit, legal, custodial, trustee, annual general meeting fees, and performance-based fees).

(5) If the fund manager of a collective investment scheme chooses to use a benchmark for risk and return analysis, the fund manager shall disclose in the performance report —

- (a) the benchmark description which shall include the key features of the benchmark or the name of the benchmark for a readily recognized index or other point of reference; and
- (b) the periodicity of the benchmark if benchmark returns are calculated less frequently than monthly.

(6) The benchmark used shall be relevant to the fund strategy of the same return type, in the same currency and for the same periods for which the returns are presented.

(7) The fund manager of a collective investment scheme fund shall present the maximum drawdown and the sharpe ratio as risk measure in addition to any other measure that current and prospective investors are likely to understand.

(8) When calculating risk measures —

- (a) the periodicity of the fund returns, and the benchmark returns shall be the same; and
- (b) the risk measure calculation methodology of the fund and the benchmark shall be the same.

124. (1) Every collective investment scheme shall have an annual accounting period ending the last day of December in each year, but the fund manager shall publish and submit to the Authority an un-audited interim report for the half-year period ending on the last day of June in each year within two months from the end of that month and audited financial statements within three months from the end of the accounting period.

Accounting periods
and allocation of
income.

(2) A collective investment scheme constituted as a body corporate must have an annual income allocation date, which is the date in any year stated in the most recently published information or placement memorandum as the date on or before which an allocation of income is to be made in respect of each annual accounting period.

(3) The annual income allocation date must be a date within two months after the relevant accounting reference date.

125. In preparation of financial statements of the fund—

Preparation of fund
accounts.

- (a) total returns shall be used, including dividend income, interest income and capital gains;
- (b) assets and liabilities shall be recognized on the trade date and not the settlement date;
- (c) accrual accounting shall be used for fixed-income securities and all other investments that earn interest income;
- (d) any accrued income shall be included in the opening and closing portfolio values when performance is calculated;
- (e) management, performance-based and other fees shall be accrued and
- (f) dividend income shall be recognized as of the ex-dividend date.

126. (1) The fund manager shall cause the scheme's annual report to be audited, and such report shall contain the information provided for in the Sixth Schedule.

Audit of the annual
account.

(2) A person shall not be qualified for appointment as an auditor of a scheme unless he or she is a good standing member of

and holds a valid practicing certificate issued by the Institute of Certified Public Accountants of Kenya.

(3) An auditor shall be independent of the trustee, the custodian, board of directors and the fund manager, their agents or associates.

127. (1) A report which relates to an annual accounting period shall contain—

Contents of annual accounts

- (a) accounts which shall include a balance sheet and an income and expenditure account;
- (b) a statement of commissions paid on dealing as required by the Sixth Schedule;
- (c) a comparative table relating to that period stating the matters set out in the Sixth Schedule;
- (d) a copy of a report of the auditor to the holders of participatory interests on the accounts contained in the report stating the matters set out in the Sixth Schedule;
- (e) a copy of a report of the trustee and custodian to the holders of participatory interests stating the matters set out in the Sixth Schedule and supplied to the fund manager by the trustee or custodian; and
- (f) figures for the total expense ratio of the scheme referred to in the Sixth Schedule.

(2) A report which relates to any accounting period shall contain the accounts of the scheme for the period to which the report relates which shall include the matters required to be stated therein by the Authority.

(3) A report which relates to any accounting period shall be signed by at least two directors of the fund manager.

128. (1) When calculating returns for a collective investment scheme funds using time-weighted method, all assets shall be valued daily and returns calculated at least monthly.

Calculating returns

(2) The fund manager shall calculate sub-period returns at the time of all cash flows exceeding 10% of the Assets under Management.

(3) When calculating returns, the fund manager shall geometrically link periodic and sub-period returns.

(4) When calculating returns the fund manager shall consistently apply the calculation methodology used for an individual portfolio.

129. (1) The fund manager shall within three months after the end of each annual accounting period and two months after the end of the half-yearly accounting period, submit to the Authority and publish the fund manager's annual and half-yearly reports respectively.

Publication of fund manager's reports

(2) The fund manager shall send a copy of the report to each holder (or to the first named of joint holders) entered in or entitled to be entered in the register at the close of business on the last day of the relevant accounting period (or, if the report relates to a half-yearly accounting period for which no interim allocation of income is made, as at the last day of that period) and shall supply a copy of the report to each holder of the participatory interests on request by the holder.

(3) The fund manager and the trustee shall make the most recent annual report and the most recent half-yearly report (unless it has been superseded by an annual report) available, in English, for inspection by the public at each place specified for the purpose in the most recently published information memorandum during ordinary office hours.

(4) The fund manager shall send a signed copy of the annual report when it is published, to the Authority and to the trustee.

130. The fund manager shall not effect any sale of participatory interests in the scheme to any person until it has made available to the person at all times during ordinary office hours at its principal place of business in Kenya, or sent to the person, on request, a copy of the most recent annual report of the fund manager and the scheme and the most recent half-yearly report of the fund manager and the scheme, unless it has been superseded by the most recent annual report.

Fund manager's reports to be availed to purchasers of participatory interests

131. The fund manager shall, with every publication of prices under regulation 97, publish a statement that the most recent report of the fund and the information or placement memorandum are available to any person who applies to the fund manager for them.

Fund manager to publish daily statement

132. It is the duty of the trustee to enquire into the conduct of the fund manager in the management of the scheme in each annual accounting period and to report on the conduct to the holders of participatory interests.

Annual report by the trustee

133. The trustee's report shall contain the matters set out in paragraph 5 of the Sixth Schedule and shall be delivered to the fund manager in good time to enable the fund manager include a copy of the report in the fund manager's report to the holders of participatory interests made on or before the annual income allocation date.

Trustee's report to be delivered to fund manager in good time

PART XII—MEETINGS AND MODIFICATIONS

134. (1) The trustee shall convene—

General and extra ordinary meetings

- (a) a general meeting within four months after the relevant accounting reference date; or
- (b) an extra ordinary general meeting on receipt of a requisition that complies with subregulation (3), for a date not later than two months after receipt of the requisition.

(2) A meeting can either be virtual or physical.

(3) A requisition shall—

- (a) state the objects of the meeting;
- (b) be dated;
- (c) be signed by participants who, at that date, are registered as the holders of participatory interests representing not less than one-tenth in value and number of all of the participatory interests in the fund or sub fund then in issue; and

(d) be deposited at the head office of the scheme.

(4) A requisition may consist of several documents deposited with the fund manager or the investment company at the same time, each being in like form and signed by one or more participants.

(5) In the case of a collective investment scheme constituted as a corporate body, other than duly requisitioned meetings of holders of participatory interests, the fund manager shall not be obliged to convene general meetings of holders of participatory interests in the manner contemplated in the Companies Act, 2015.

No. 17 of 2015.

(6) In the case of an investment company, the Alternate Corporate Director or the directors may convene a meeting of participants at any time.

135. (1) A fourteen days' notice or any longer period of notice specified for the purpose in the trust deed or instrument of incorporation, inclusive of the day on which the notice is deemed to be served and of the day specified under subregulation (2), of every meeting shall be given to the participants in the manner provided for in regulation 137.

Notice of meetings
of participants

(2) The notice shall specify the place day and hour of meeting and the terms of the resolutions to be proposed.

(3) A copy of the notice shall be sent to the trustee by post unless it is the trustee that has convened the meeting.

(4) The accidental omission to give notice to or the non-receipt of notice by any of the holders shall not invalidate the proceedings at any meeting.

136. (1) The fund manager shall be entitled to receive notice of and attend any general meeting but shall not be entitled to vote or be counted in the quorum for the meeting and accordingly, for the purposes of this part, the participatory interests held or deemed to be held by the fund manager shall not be regarded as being in issue.

Attendance and
voting at meetings

(2) Subregulation (1) does not apply in respect of any participatory interests which the fund manager holds on behalf of or jointly with a person who, if himself or herself the sole registered participant, would be entitled to vote, and from whom the fund manager has received voting instructions.

(3) Any associate of the fund manager shall not be entitled to vote at any such meeting except in respect of participatory interests which he or she holds on behalf or jointly with a person who, if that person is the registered holder, would be entitled to vote, and from whom the associate has received voting instructions.

(4) The trustee shall be entitled to attend every such meeting.

137. (1) Any notice or document required to be served upon a participant shall be deemed to have been duly served—

Service of notices
and other documents

- (a) in the case of participatory interests held by a registered participant, if it is sent by post to or left at his or her address as appearing in the register or sent by electronic mail to the email address appearing on the register; or
- (b) in the case of participatory interests for the time being represented by investment certificates, if it is given in the manner provided for in the updated trust deed or most recently published prospectus.

(2) Any notice required to be served, or information to be supplied or given to any other person, including the Authority, shall be in writing or in such other form as enables the recipient to know or to record the time of receipt and to preserve a legible copy of the notice.

(3) Any notice or document served by post shall be deemed to have been served on the seventh day following that on which the letter containing the notice or document is posted, and in proving that service, it shall be sufficient to prove that the letter was properly addressed, stamped and posted; and any notice or document left at a registered address or delivered other than by post shall be deemed to have been served on the day it was so left or delivered.

(4) A notice or document served by electronic mail to a participant's registered email address shall be deemed to have been served upon production of the transmission report.

(5) Service of a notice or document on any one of joint holders shall be deemed effective service on the other joint holders.

138. A meeting of participants duly convened and held in accordance with this Part shall be competent, by extraordinary resolution, to require, authorise or approve any act, matter or document in respect of which any such resolution is required or expressly contemplated by these Regulations, but shall not have any other powers.

Powers of meeting of participants

139. In these Regulations, "extraordinary resolution" means a resolution—

Meaning of "extraordinary resolution"

- (a) proposed and passed at a meeting of participants duly convened and held in accordance with this Part of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given; and
- (b) carried, whether on a show of hands or on a poll, by a majority consisting of two thirds or any larger proportion specified for this purpose in the trust deed or prospectus of the total number of votes cast for and against such resolution.

140. (1) The quorum at a meeting of participants shall be the participants present in person or by proxy of—

Quorum

- (a) one-tenth in value or any proportion more than one-tenth in value specified for this purpose in the trust deed of all the participatory interests in issue on the date specified in regulation 134 (3) (c), excluding from that total any participatory interests known to have been redeemed before the time of the meeting; and
- (b) one-tenth of the total number of participants.

(2) The Authority may, on application by the trustee of a collective investment scheme, approve the modification of the quorum requirements in subregulation (1) where the requirements may be prejudicial to participants due to the size of a fund, provided that such modification is envisaged under the incorporation documents.

(3) No business shall be transacted at any meeting unless the requisite quorum is present at the commencement of business.

(4) If, within half an hour from the time appointed for the meeting, a quorum is not present, the meeting shall stand adjourned

to such day and time not being less than fourteen days thereafter and to such place as may be appointed by the chairperson and at such adjourned meeting, the participants present in person or by proxy shall be a quorum.

(5) Notice of any adjourned meeting of participants shall be given in the same manner as for an original meeting and such notice shall state that the holders present at the adjourned meeting, whatever their number and the number of participatory interests held by them, will form a quorum.

141. (1) A trustee shall preside at every meeting of participants. The chairperson

(2) Where the trustee is not present, a person, other than the fund manager, who need not be a participant, nominated in writing by the trustee, shall preside at every meeting of holders and, if no such person is nominated or if at any meeting the person nominated is not present within fifteen minutes after the time appointed for holding the meeting, the participants present shall choose one of their number to be chairperson.

142. The Chairperson may, with the consent of any meeting of participants at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting except business which may lawfully have been transacted at the meeting from which the adjournment took place. Adjournment

143. (1) At any meeting of participants, an extraordinary resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded by the chairperson, the trustee or by one or more participants present in person or by proxy and holding at least five percent for this purpose in the incorporation documents in value of all the participatory interests in issue on the date specified in regulation 134 (3) (c). Votes at meetings

(2) Unless a poll is so demanded, a declaration by the chairperson that a resolution has been carried or carried unanimously or by a particular majority or lost shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour or against the resolution.

(3) If a poll is duly demanded, it shall be taken in such a manner as the chairperson may direct and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

(4) A poll demanded on the election of a chairperson or on a question of adjournment shall be taken immediately and a poll demanded on any other question shall be taken at such time and place as the chairperson directs.

(5) The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.

(6) On a show of hands, every participant who being an individual is present in person, or being a corporation is present by its representative properly authorised in that regard, shall have one vote.

(7) On a poll, every participant who is present in person or by proxy shall have one vote for every share in the property of the scheme.

(8) A corporation, being a participant, may authorise such person as it thinks fit to act as its representative at any meeting of participants and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he or she represents as the corporation could exercise if it were an individual participant.

(9) In the case of joint holders, the vote of the senior who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders and for this purpose, seniority shall be determined by the order in which the names stand in the register of holders.

(10) On a poll, votes may be given either personally or by proxy.

(11) In the case of an equality of votes cast whether on a show of hands or on a poll in respect of a resolution put to a general meeting, the chairperson appointed in terms of the formation documents or as provided in these Regulations shall be entitled to a casting vote in addition to any other vote he or she may have.

144. (1) Modifications to the formation documents and departures from policies or a set of investment objectives stated in offer documents of the descriptions set out in subregulation (2) shall be taken to have been authorised by an extraordinary resolution at a meeting of participants if such modification or departure has been the subject of a separate motion for its approval which has been separately approved by an extraordinary resolution at that meeting.

Restrictions on the putting of composite resolutions to meetings of participants

(2) The following are the descriptions of modifications to the formation documents and departures from policy referred to in subregulation (1)—

- (a) an increase in the charges payable to the fund manager, trustee or custodian;

- (b) a modification to any provision in the trust deed restricting—
 - (i) the descriptions of assets in which the property of the scheme may be invested;
 - (ii) the proportion of property to be invested in assets of any description;
 - (iii) the description of transactions permitted; or
 - (iv) the borrowing powers of the scheme;
- (c) any statement made in the information memorandum that the manager will or may in relation to any matter within paragraph (b) adopt, in the management of the scheme, a policy or set of investment objectives more restrictive than the restrictions imposed in relation to that matter by Part VIII or by the trust deed and any changes thereof.

145. (1) The instrument appointing a proxy shall be in writing under the hand of the appointor or of his or her attorney duly authorised in writing or, if the appointor is a corporation, either under the common seal or under the hand of an officer or attorney so authorised.

Proxies

(2) No instrument for appointing a proxy shall be valid after the expiration of twelve months from the date named in it as the date of its execution.

(3) A person appointed to act as a proxy need not be a participant.

(4) An instrument of proxy may be a form approved by the trustee.

(5) A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding—

- (a) the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed; or
- (b) the transfer of the participatory interests in respect of which the proxy is given,

except that no intimation in writing of such death, insanity, revocation or transfer shall have been received at the place appointed for the deposit of proxies, or if no such place is appointed, at the registered office of the fund manager before the commencement of the meeting or adjourned meeting at which the proxy is used.

(6) The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a

naturally certified copy of such power or authority shall be deposited at such place as the trustee or the fund manager with the approval of the trustee may, in the notice convening the meeting, direct or if no such place is appointed then at the registered office of the fund manager.

(7) The direction by the trustee under subregulation (6) shall be not less than forty-eight hours before the time appointed for holding the meeting or adjourned meeting or in the case of a poll before the time appointed for the taking of the poll at which the person named in the instrument proposes to vote, and in default, the instrument of proxy shall not be treated as valid.

146. In this Part, "participants" means—

Special meaning of participant

- (a) the persons who were participants on the date forty-eight hours before the notice of the relevant meeting was deemed to have been served in accordance with regulation 137, but excluding any persons who are known to the fund manager not to be participants at the time of the meeting; or
- (b) in the case of investment participatory interests, participants which were in issue on the date seven days before the notice of the relevant meeting was deemed to have been served in accordance with regulation 137.

147. (1) Minutes of all proceedings and resolutions at every meeting of the participants shall be made and duly entered in books to be, from time to time, provided for the purpose at the expense of the fund manager.

Minutes

(2) Any such minute purporting to be signed by the chairperson of the meeting shall be conclusive evidence of the matters stated in them and, until the contrary is proved, every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened, and all resolutions passed at that meeting, to have been duly passed.

148. (1) Where the trustee or custodian is of the opinion that any extraordinary resolution to be proposed is one in relation to an umbrella fund, between the participants in one constituent fund and the participants in another, that resolution shall be deemed to have been duly passed only, if instead of being passed at a single meeting of all participants, it shall be duly passed at separate meetings respectively of the participants in the one constituent fund and participants in the other, as the case may be.

Class meetings

(2) This Part applies to each separate meeting held under subregulation (1) as it applies to other meetings.

149. The rights attaching to a class of participatory interests shall not be varied except with the sanction of an extraordinary resolution passed at a class meeting of the participants of the class.

Variation of class rights

150. (1) A modification may be made to the trust deed only by a deed approved by the Authority, expressed to be supplemental to the trust deed, entered into by the fund manager and the trustee or custodian following—

Modification of the trust deed: with meeting

- (a) the calling of a meeting of participants by notice if required under subregulation (2); and
- (b) the approval of the holders if required under subregulation (3).

(2) The calling of a meeting is necessary unless the fund manager and the trustee or custodian have agreed that the modification is one which may, in accordance with regulation 151, be made without the approval of a resolution.

(3) The approval of the participants signified by the passing at the meeting of an extraordinary resolution authorising the modification is required in any case where a meeting of participants has to be called.

(4) If a meeting is required under subregulation (2), the notice of the meeting shall state that the trustee or custodian has reviewed the circumstances leading to the proposed resolution and considers that the information accompanying the notice contains sufficient information to enable participants make an informed decision.

151. (1) Subject to subregulation (2) and any restriction on the powers to modify which may be contained in the trust deed, a modification to the trust deed may be made without the approval of a resolution of the participants if it is required solely—

Modification of the trust deed: without meeting

- (a) to implement any change in the law, including a change brought about by an amendment to these Regulations;
- (b) as a direct consequence of any such change in the law;
- (c) to change the name of the scheme;
- (d) to include a provision to enable the fund manager to deduct a charge on redemption, where the circumstance envisaged by regulation 94 does not apply;
- (e) to remove from the trust deed obsolete provisions;
- (f) to replace the fund manager or the trustee when he or she has been removed or wishes to retire or has retired;

- (g) to remove references to a constituent part of an umbrella fund; or
 - (h) to make any other modification which the trustee or custodian and the fund manager have agreed in writing does not involve any participants or potential participants in any material prejudice.
- (2) A modification is not within subregulation (1) if it—
- (a) would affect any express restriction imposed by the trust deed on the powers which the fund manager and trustee or custodian or either of them would otherwise be able to exercise within these Regulations;
 - (b) would increase the maximum of any charge authorised by the trust deed to be made by the fund manager; or
 - (c) would relate to the authority for payments to be made out of the property of the scheme to the trustee or custodian by way of remuneration for the trustee or custodian's services.

152. (1) A statement of policy or set of investment objectives in the incorporation documents of the kind referred to in regulation 144 may not be changed without the approval of the Authority and an extraordinary resolution, and no significant departure may be made in the management of the scheme from that stated policy or set of investment objectives unless and until the departure has been approved by the Authority and an extraordinary resolution at a meeting of participants called for the purpose, and incorporation documents amended accordingly have been published.

Resolution to change
incorporation
documents (trust)

(2) Except where approved by an extraordinary resolution at a meeting of participants called for the purpose, a change to the incorporation documents relating to a proposal to treat all or any part of the fund manager's periodic charge as a capital charge, may not be made; but this prohibition does not apply where—

- (a) the scheme concerned already has clear investment objectives indicating—
 - (i) a greater preference for the generation of income than for capital growth; or
 - (ii) equal emphasis on the generation of income and on capital growth; and
- (b) ninety days have elapsed since the participants were notified in writing by the fund manager of the change to the incorporation documents and of the date when it is to come into effect.

(3) Any amendment to the incorporation documents to introduce a list, or to add an eligible market to the list, shall require approval of an extraordinary resolution at a meeting of participants unless—

- (a) the amendment is, in the context of the investment strategy of the scheme, of minimal significance only, and the trustee and the fund manager have so agreed in writing; or
- (b) the fund manager has—
 - (i) given notice in writing of the intended amendment to the trustee and the participants;
 - (ii) included in the incorporation documents the proposed date of commencement of the amendment; and
 - (iii) before the amendment is relied upon, waited for ninety days to lapse since the amended incorporation documents became available.

153. (1) The incorporation documents of a company may be amended by an extraordinary resolution and, in the case of a provision required to comply with paragraphs 3(1) or 4(1)(b) or 4(1)(d) of Second Schedule to these Regulations, may only be amended by an extraordinary resolution unless the amendment is to a provision required to comply with paragraph 4(1)(d) of Second schedule to these Regulations and is made solely to reflect the introduction of a new sub-fund.

Resolution to amend
incorporation
documents
(company)

(2) Notwithstanding subregulation (1), an amendment to the incorporation documents of a company that relates to a particular class of shares or particular classes and does not relate to a provision required to comply with paragraph 3(1) of Second Schedule and does not prejudice the shareholders of any other class may be made by an extraordinary resolution passed at a class meeting or class meetings.

(3) Except where in accordance with subregulation (1), an amendment to the incorporation documents may be made by an extraordinary resolution of the directors where—

- (a) the incorporation documents provide for amendment to be made in such manner; and
- (b) the amendment is required solely—
 - (i) to implement any change in the law, including a change brought about by an amendment of the Act or these Regulations;

- (ii) as a direct consequence of any such change;
- (iii) to change the name of the investment company;
- (iv) to remove from the incorporation documents obsolete provisions;
- (v) to make any other change to the incorporation documents which the directors consider does not involve any shareholder or potential shareholder in any material prejudice; or
- (vi) it would not introduce or affect any provision relating to the descriptions of the transferable securities in which the assets under management may be invested unless it is required solely to reflect the introduction of a new sub-fund.

154. (1) Neither a collective investment scheme nor a sub-fund of a collective investment scheme shall be subject to an amalgamation or reconstruction, which would result in the participants becoming participants in any other entity other than a licensed scheme or a recognised scheme.

Amalgamation and
reconstruction

(2) Where, for the purpose of an amalgamation or reconstruction, it is proposed that the assets under management of a collective investment scheme, or assets under management attributable to a sub-fund of collective investment scheme, should become the property of another licensed scheme or sub-fund or equivalent separately pooled part of a licensed scheme, the proposal shall not be implemented without the sanction of an extraordinary resolution of the participants of the collective investment scheme or, as the case may be, of the class or classes of participatory interests related to the sub-fund.

(3) Where it is proposed that a collective investment scheme or sub-fund of a collective investment scheme should receive property as a result of a scheme of amalgamation or reconstruction of some other collective investment scheme or sub-fund (or equivalent separately pooled part) of such a scheme then the proposal shall not be implemented without the sanction of an extraordinary resolution of the holders of the participatory interests of the collective investment scheme or, as the case may be, of the class of participatory interests related to the sub-fund, unless subregulation (4) applies.

(4) This subregulation applies where the fund manager is reasonably satisfied that the inclusion of the property concerned—

- (a) is not likely to result in any material prejudice to the interests of the participants of the collective investment scheme;
- (b) is consistent with the objectives of the collective investment scheme or sub-fund; and
- (c) could be effected without any breach of management of collective investment schemes under Part V.

(5) The fund manager may at any time carry out a valuation of the assets under management for the purpose of effecting a scheme of amalgamation or reconstruction, and such a valuation does not create a valuation point for the purposes of dealings.

(6) The fund manager may carry out a valuation of the assets under managements on the day on which the annual or half yearly accounting period ends and—

- (a) if that day is not a dealing day; or
- (b) if the accounting period ends on a day before or after the period of that day which is the dealing day,

that valuation does not create a valuation point for the purposes of dealings.

155. (1) Amalgamation is an arrangement authorised by the Authority whereby—

Arrangement of
amalgamation

- (a) the whole of the assets under management of a collective investment scheme becomes the property of another collective investment scheme, and
- (b) participants in the collective investment scheme receive participatory interests in the amalgamated scheme,

and references in this definition to a collective investment scheme include a sub-fund of such a scheme.

(2) Where it is proposed that two or more collective investment schemes should be amalgamated, the proposals will require—

- (a) the approval of the participants of the scheme or any scheme which would cease to exist; ('the discontinuing scheme'); and
- (b) the approval of the participants of the scheme or a scheme which would not so cease to exist. ('the continuing scheme').

(3) Subregulation (2) (b) does not apply if the trustee or custodian of the continuing or absorbing scheme is reasonably satisfied that the inclusion of the assets concerned—

- (a) is not likely to result in any material prejudice to the interests of the participants in the scheme; and
- (b) is consistent and is regarded by the fund manager as consistent with the objectives of the scheme.

156. (1) A reconstruction of a collective investment scheme is a scheme of arrangement authorized by the Authority whereby— Reconstruction

- (a) part of the property of a collective investment scheme becomes the property of another collective investment scheme or schemes; or
- (b) the whole of that property becomes the property of two or more collective investment schemes,

whereby participants in the collective investment scheme being reconstructed receive participatory interests in the reconstructed collective investment scheme or schemes in exchange for the property received into that collective investment scheme or schemes.

(2) A proposal for reconstruction requires, in respect of the collective investment scheme being reconstructed, the approval of the participants in the scheme.

(3) Where it is proposed that assets under management of the collective investment scheme being reconstructed should become property of another collective investment scheme, the proposals will require the approval of the participants in the collective investment scheme being reconstructed, unless that approval would not have been required on an amalgamation by virtue of regulation 151 on the assumption that the assets to be included were treated as a discontinuing scheme.

PART XIII—SUSPENSION AND TERMINATION OF COLLECTIVE INVESTMENT SCHEMES

157. (1) The fund manager may, with the prior agreement of the trustee, or shall, if the trustee so requires, at any time for a period not exceeding twenty-eight days, suspend the issue and the redemption of participatory interests if the fund manager or the trustee is of the opinion that there is good and sufficient reason to do so, having regard to the interests of participants or potential participants.

*Suspension and
resumption of issue
and redemption of
participatory
interests*

(2) At the time of suspension under subregulation (1), the fund manager, or the trustee, if trustee required the fund manager to suspend the issue and redemption, shall—

- (a) obtain approval from the Authority of the suspension, stating the reasons for its action;

- (b) immediately give written confirmation of the suspension and the reasons for it to the Authority, participants in the affected collective investment scheme and the authorities who are responsible for the authorisation of collective investment schemes in each country in which the fund manager holds itself out as willing to sell or redeem participatory interests in the collective investment schemes concerned; and
 - (c) publish a notice of the suspension in a newspaper of nationwide circulation and on its website.
- (3) The Authority may order a suspension of a collective investment scheme where it is in the interest of the participants.
- (4) Where issue and redemption are suspended—
 - (a) the trustee shall not create or cancel participatory interests; and
 - (b) the fund manager shall not buy or sell participatory interests as an agent of the trustee or on its own account.
- (5) Before the resumption of issue and redemption of participatory interests, the fund manager shall inform the Authority of the proposed resumption and immediately after the resumption, it shall—
 - (a) confirm the resumption by giving notice in writing to the Authority, holders of participatory interests in the affected collective investment scheme and the bodies and authorities specified in subregulation (2)(b); and
 - (b) notify the participants and publish a notice of the resumption in a newspaper of nationwide circulation and on its website.
- (6) During the suspension period—
 - (a) the fund manager shall keep the Authority and participants in the collective investment scheme informed and updated regarding the status and or any developments concerning the suspension; and
 - (b) none of the obligations in Part VI relating to the creation, cancellation, issue or redemption of participatory interests or to the valuation of participatory interests shall apply.

Provided that the circumstances are fully disclosed in the scheme documents, the fund manager in consultation with the trustee

may as an alternative to suspension of dealings in participatory interests implement other methods for dealing with exceptional circumstances including gating, side pockets and or discounts on redemption as defined in subregulation (7)

(7) For the purposes of subregulation 6—

“gating” means the partial restriction to an investor’s ability to redeem his or her participatory interests;

“side pockets” means segregation of the illiquid portion of a fund’s portfolio and their transfer into a separate, illiquid investment vehicle; and

“discount” is the percentage or amount by which the redemption price of a participatory interest, calculated on the basis of net asset value, is reduced.

158. (1) A scheme may be wound up—

Winding up of a
scheme

- (a) where the Authority revokes the approval of the collective investment scheme;
- (b) where the fund manager or the trustee or custodian requests for the revocation of the Authority’s approval of the scheme;
- (c) upon the expiration of any period specified in the trust deed as the period at the end of which the scheme is to terminate;
- (d) on the effective date of a duly approved scheme of amalgamation; or
- (e) on the effective date of a duly approved collective investment scheme reconstruction which results in all the property of the reconstructed scheme becoming the property of two or more schemes.

(2) Upon the occurrence of any of the events specified in subregulation (1)—

- (a) Part VI on pricing and dealing shall cease to apply to the scheme;
- (b) the trustee shall cease to create and cancel participatory interests in the scheme;
- (c) the fund manager shall cease to issue and redeem participatory interests in the scheme;

- (d) the fund manager shall cease to buy and sell participatory interests as an agent of the trustee or custodian or on his or her own account; and
- (e) the trustee or custodian shall proceed to wind up the scheme in accordance with regulation 159.

159. (1) In a case falling within regulation 158(2)(d) or 158(2)(e), the trustee shall wind up the scheme in accordance with the approved scheme of amalgamation or reconstruction.

Manner of winding up

(2) In any other case falling within regulation 158—

- (a) the trustee or custodian shall, as soon as practicable after the scheme falls to be wound up, realise the property of the scheme and, after paying out or retaining adequate provision for all liabilities properly so payable and retaining provision for the costs of the winding up, distribute the proceeds of that realisation to the participants and the fund manager proportionately to their respective interests in the scheme as at the date of the relevant event referred to in regulation 158(2); and
- (b) any unclaimed net proceeds or other case (including unclaimed distribution payments) held by the trustee shall be dealt with as provided under the law on unclaimed financial assets subject to the trustee or custodian having a right to retain any expenses incurred by it in making and relating to that payment.

(3) Where the trustee and one or more participants agree, the requirement in subregulation (2) to realise the property of the scheme shall not apply to that part of the property proportionate to the entitlement of that or those participants, and the trustee may distribute that part in the form of property, after making such adjustments or retaining such provision as appears to the trustee or depositary appropriate for ensuring that those participants bear a proportional share of the liabilities and costs.

(4) This regulation is subject to the terms of any scheme of amalgamation or reconstruction sanctioned by participants by way of a special resolution passed on or before the date of winding up or amalgamation.

(5) The fund manager may agree with one or more participants to distribute assets under management in actual form to that or those participants in proportion to their respective rights to participate on condition that such participants bear the proportion of the liabilities of the scheme and the expenses of the distribution attributable to them.

(6) Subregulation (5) shall not apply to proprietary assets of the fund manager.

(7) Nothing in this Part requires the trustee to distribute proceeds of a realisation to any participant in any case where the fund manager or the trustee considers it necessary or appropriate to carry out or complete identification procedures in relation to the participant or another person pursuant to a statutory obligation.

(8) On completion of the winding up in respect of the events referred to in paragraphs (b), (c), (d) or (e) of regulation 158(2), the trustee shall notify the Authority in writing of that fact and at the same time, the trustee or board of directors shall request the Authority to revoke the approval and the trustee or board of directors shall publish a notice of the winding up on their website and in a newspaper of nationwide circulation.

(9) Where any sum of money including unclaimed distributions, stands to the account of the scheme at the date of its dissolution, the fund manager shall pay as is provided under the law relating to unclaimed financial assets.

160. (1) The fund manager shall make all reasonable efforts to ensure that all the liabilities of the scheme are discharged before the completion of the winding up.

Duty to ascertain liabilities

(2) The duty in subregulation (1) relates to all liabilities of the investment company of which—

- (a) the fund manager is, or becomes aware before the completion of the winding up; or
- (b) the fund manager would have become aware before the completion of the winding up had made all reasonable efforts to ascertain the liabilities of the scheme.

(3) Where the fund manager rejects any claim against the scheme in whole or in part, the fund manager shall immediately send to the claimant written notice of its reasons for doing so.

161. (1) As soon as the scheme's affairs are fully wound up (including distribution or provision for distribution in accordance with regulation 161(2), the fund manager shall prepare an account of the winding up showing how it has been conducted and how the assets under management have been disposed of.

Final account

(2) The account shall, following its approval by the board of directors in the case of an investment company or trustee in all other cases be signed on their behalf by the fund manager and the account shall, once signed, be the "final account" for the purposes of these Regulations.

(3) The final account shall state the date on which the scheme's affairs were fully wound up and the date stated shall be regarded as the final day of the accounting period of the investment company.

(4) The scheme's auditor shall make a report in respect of the final account, which shall state the auditor's opinion as to whether the final account has been properly prepared for the purposes of subregulation (1).

(5) Within two months of the end of the final accounting period, the fund manager shall send a copy of the final account and the auditor's report on it to the Authority, to each person who was a participant or the first named joint holders immediately before its end, and to the Registrar of Companies where applicable.

162. (1) Subject to any order of the High Court, and to subregulation (2) while a scheme is being wound up, whether under regulation 159 or otherwise—

Accounting and
reports during
winding up

- (a) the annual and half-yearly accounting periods shall continue to run;
- (b) the quarterly report of assets under management shall continue to be submitted to the Authority;
- (c) the provisions about annual and interim allocation of income shall continue to apply; and
- (d) annual and half-yearly reports shall continue to be required.

(2) At the conclusion of the winding up, the accounting period then running shall be regarded as the final annual accounting period, and the annual reports of the fund manager and trustee or custodian in respect of that final period, shall be published and sent to each person who was a participant immediately before the end of the final accounting period within two months after the end of the period.

PART XIV—ADVERTISEMENTS AND PUBLIC ANNOUNCEMENTS

163. (1) A person shall not advertise to the public or section of the public in any media to invest in a collective investment scheme unless the advertisement has been approved by the trustee in writing and notified to the Authority.

Restriction on
advertising

(2) For purposes of this Regulation, an advertisement includes any materials that are distributed to or designed for use in newspapers, magazines, firm brochures, fund fact sheets, fund offering documents, letters, media, websites or any other written or electronic material distributed to more than one party.

164. (1) Any advertisement or invitation or other promotional material to the public or a section of the public, which includes information on the trustee, shall be accompanied by the trustee's written consent.

Content of
advertisement

(2) If a collective investment scheme is described as having been approved by the Authority it shall be stated that, in giving this approval, the Authority does not take responsibility for the financial soundness of the scheme or for the correctness of any statements made or opinions expressed in this regard.

(3) Advertisements shall include a warning statement that —

- (a) the price of shares and the income therefrom if the collective investment scheme pays dividends may go down as well as up;
- (b) past performance is not reflective of future performance; and
- (c) a warning to investors that in certain specified circumstances the investors' right to redeem their participatory interests may be suspended.

(4) Warning statements shall be written in such a manner as to be capable of being read with reasonable ease by anyone reading the advertisement.

165. For all publications, the fund manager must present information that is calculated and presented in line with these Regulations.

Publication

166. (1) For all publications, the fund manager must include at a minimum Net Asset Value, Yield (Year-to-date, Month-to-date and Quarter-to-date) where applicable.

Highest and lowest
price

(2) The highest and lowest price and yield for the last one year shall also be included for the applicable funds.

167. The fund manager shall adhere to the principles of fair presentation and full disclosure when advertising and shall not present performance or performance-related information that is false or misleading.

Disclosure

168. (1) The fund manager shall maintain all data and information necessary to support all items included in the advertisement.

Advertisement data

(2) Where a fund manager has summarized aspects of the performance reports in the advertisement, it shall indicate where to obtain the full performance report.

169. (1) In an advertisement, the fund manager shall clearly label or identify— *Advertisement*

- (a) the name and description of the fund;
- (b) the name of the benchmark used, where applicable, which shall include the key features of the benchmark or the name of the benchmark for a readily recognized index or other point of reference; and
- (c) the periods that are presented.

(2) All information in an advertisement shall be presented in the same currency and that currency disclosed.

(3) The fund manager shall present total returns according to at least one-year, three-year, and five-year annualized returns through the most recent period.

(4) The fund manager shall disclose the current expense ratio and which fees, including performance-based fees and expenses are included in the expense ratio.

(5) The fund manager shall disclose the risk measures or qualitative disclosure in a manner that a prospective investor will understand.

(6) The fund manager shall disclose the fund's sales charges and how they are reflected in the fund's returns, if applicable.

PART XV—MISCELLANEOUS

170. (1) Any notice required to be served upon a participant shall be deemed to have been duly given— *Service of notices and documents*

- (a) in the case of participatory interests for the time being represented by investment certificates, if it is given in the manner provided for in the most recently published incorporation documents; or
- (b) in the case of participatory interests held by a registered participant, if it is sent by e-mail, post to or left at his or her address as appearing in the register.

(2) Any notice required to be served or information to be supplied or given to any other person, including the Authority, shall be in writing in such other form as enables the recipient to know or record the time of receipt and to preserve a legible copy of the notice.

(3) Any notice served by—

- (a) email shall be deemed to have been served at the time recorded in the transmission report;
- (b) post shall be deemed to have been served on the second day following that on which the letter containing the notice is posted, and in proving such service, it shall be sufficient to prove that such letter was properly addressed, stamped and posted.

(4) Service of a notice or document on any one of several joint holders shall be deemed effective service on the other joint holders.

171. (1) Any person operating a collective investment scheme prior to the commencement of these Regulations shall obtain approval within twelve months after the commencement of these Regulations.

Transition clause

(2) All registered collective investment scheme shall transition within twelve months from the commencement date.

172. The Capital Markets (Collective Investment Scheme) Regulations, 2001, are revoked.

Revocation
L.N. 181/2001.

FIRST SCHEDULE

[rr. 10(1), 33, 66]

Form I: Application Form for Approval of a Collective Investment Scheme

PROMOTER	
Name:	
Contact address:	
CONSTITUTION	
Legal form of the collective investment scheme: (i) mutual fund; (ii) unit trust; (iii) investment company	
Country or jurisdiction where the collective investment scheme is constituted.	
Title of the law under which the collective investment scheme is or is to be constituted.	
State certificate of incorporation	
KEY OFFICERS	
State name, address, place of birth and citizenship of: (i) directors; (ii) chief executive	
State educational and professional qualifications of the key officers.	
Give details of business, occupation or employment history of the key officers.	
REFERENCES	
Give two personal references and a bank reference of the key officers.	
FUNCTIONARIES:	
State names, addresses and business activities of each of the collective investment scheme's	
Fund manager,	Name:
	Address:
	Business activities:
Custodians	Name:

	Address:
	Business activities:
Administrators;	Name:
	Address:
	Business activities:
Investment Advisers	Name:
	Address:
	Business activities:
Trustees.	Name:
	Address:
	Business activities:
PRIOR REGISTRATION:	
State if the collective investment scheme is now or has been registered, licensed, recognized or authorized under any law or regulations relating to mutual funds, collective investment schemes/funds or securities in any country or jurisdiction.	
State if the collective investment scheme is now or has been registered, licensed, recognized or authorized under any law or regulations relating to mutual funds, collective investment schemes/funds or securities in any country or jurisdiction.	
REFUSAL OR DISCIPLINARY MEASURES	
Has the collective investment scheme, any of its officers, managers, administrators, investment advisers or custodians been the subject of –	
Refusal of an application for registration, licence, recognition or authorization; Give details and reasons if yes	
Suspension, cancellation or revocation of registration, licence, recognition or authorization by any authority in any country or jurisdiction? Give details and reasons if yes	
CIVIL PROCEEDINGS	
Has a judgment been rendered or any suit, action or proceedings pending against any officer of the collective investment scheme or of any of its functionaries stated above in civil	

proceedings in any court or tribunal in any country or jurisdiction which has been or is based in whole or in part on fraud, theft, deceit, misrepresentation or similar conduct?	
Give details if yes.	
OFFENCES	
Has any key officer of the collective investment scheme or any of its functionaries stated above been or is being charged, indicted or convicted in any country or jurisdiction for any offence in any criminal or civil proceedings relating to fraud or theft arising out of dealing in mutual funds, collective investment schemes/funds or securities?	
BANKRUPTCY	
Has any key officer or the collective investment scheme or of any of its functionaries stated above been -	
(a) declared bankrupt or been party to bankruptcy or insolvency proceedings? or	
(b) subject to proceedings relating to winding – up, dissolution or creditors' arrangements; or	
(c) subject to proceedings relating to receivership or creditors' compromise; in any country or jurisdiction?	
<p>Secretary Note:</p> <p>The following shall be submitted with the application for approval:</p> <ol style="list-style-type: none"> 1. Particulars of the Promoters 2. Information Memorandum 3. Trust Deed 4. Management Agreement 5. Custody Agreement 6. Rules of the Scheme 7. Affidavit 8. Audited reports for the preceding 3 years of the proposed fund manager 9. Audited reports for the preceding 3 years of the proposed trustee 10. Audited reports for the preceding 3 years of the proposed custodian 11. Any other document(s) referred to under these Regulations. 12. An application fee of Ksh. 10,000. 	

Form II

APPLICATION FORM FOR A LICENCE TO BE A
TRUSTEE/CUSTODIAN

Application is made for a trustee/custodian (tick as appropriate) license under these regulations and the following statements are made in respect thereof:

Note:

- i. If space is insufficient to provide details, please attach annexure(s).
- ii. Any annexure(s) should be identified as such and signed by the signatory of this application.

Information provided should be as at the date of the application or renewal.

INFORMATION ON THE APPLICANT	
1.	Name of company
2.	Registered Office
3.	Date of Incorporation
4.	Address
5.	E-mail
6.	Location of Principal Office..... Telephone number of principal office..... Branch offices (if any) Details of Branch Offices.....
INFORMATION ON THE APPLICANT'S BUSINESS	
7.	State the exact nature of the activity to be carried on which obliges the applicant to apply for a licence from the Capital Markets Authority
8.	Information on the business model (please attach a business plan if necessary)
9.	Description of the internal controls to secure the integrity of the business (e.g. risk management, data protection, information technology security, control mechanisms for compliance with investor protection requirements)
10.	Evidence and details of the platform (e.g. ownership, readiness for use)
OWNERSHIP STRUCTURE, DIRECTORS AND OTHER KEY PERSONNEL	
Fit and proper: Your directors and senior managers must be fit and proper persons to hold their respective positions.	
Capability: Your organisation must have the right mix of people with the right skills and experience, in the right roles, to monitor your licensed business properly and effectively.	

Financial resources: Your organisation must have adequate financial resources to effectively and efficiently run the business.						
11. Details of capital structure:						
(a) Nominal capital (Ksh.).....						
(b) Number of shares						
(c) Paid up capital (Ksh.)... ..						
(d) Liquid capital (Ksh.)... ..						
12. Shareholders (please attach a list showing the following details)						
Name		Address and telephone number			Number of shares held	
13. Directors (please attach a list with the following details)						
Name	Identity Card/ Passport number	Date of Appointment	Date of birth	Permanent address and telephone number	Academic or Professional qualification	Number of shares held in the company
14. Company Secretary (details)						
i. Name.....						
ii. Address.....						
iii. Institute of Certified Secretaries of Kenya Registration No.						
15. Details of the Chief Executive Officer and other Key personnel (please attach a list with the following details)						
Name	Identity Card/ Passport number	Date of Appointment	Date of birth	Permanent address & telephone number	Academic or Professional qualification	Number of shares held in the company
16. Profile of the persons stated in note 12						
Name		Post		Qualifications		Experience
OTHER PARTICULARS ON THE KEY PERSONEL OF THE APPLICANT						
17. Particulars of other directorship(s) of the directors and secretary.						
.....						
.....						
18. Particulars of shares held by directors or secretary in other companies						
.....						
.....						

<p>19. Has the applicant or any of its directors, secretary or members of senior management at any time been placed under receivership, declared bankrupt, or compounded with or made an assignment for the benefit of his creditors, in Kenya or elsewhere? Yes/ No. If 'yes', give details</p> <p>.....</p> <p>.....</p>
<p>20. Has any director, secretary or senior management of the applicant been a director of a company that has been:</p> <p>a) denied any licence or approval under the Capital Markets Act or equivalent legislation in any other jurisdiction? Yes/No.</p> <p>If Yes, give details.</p> <p>.....</p> <p>.....</p> <p>b) a director of a company providing banking, insurance, financial or investment advisory services whose licence has been revoked by the relevant authority? Yes/No.</p> <p>If Yes, give details.</p> <p>.....</p> <p>.....</p> <p>c) subjected to any form of disciplinary action by any professional body of which the applicant or any of its director was a member? Yes/ No.</p> <p>If yes, give details.</p> <p>.....</p> <p>.....</p>
<p>21. Has any court ever found that the applicant, or a person associated with the applicant was involved in a violation of the Capital Markets Act or Regulations thereunder, or equivalent law outside Kenya? Yes / No.</p> <p>If 'yes', give details.</p> <p>.....</p> <p>.....</p>
<p>22. Is the applicant and/or a person associated with the applicant now the subject of any proceeding that could result in a 'yes' answer to the above question (21)? Yes/No.</p> <p>If 'yes,' give details.</p> <p>.....</p> <p>.....</p>
<p>23. (1) Is the applicant, or any shareholder, director or the secretary of the applicant, a member or director of a</p>

member company of any securities or derivatives exchange or any over the counter platform? Yes/ No.

If 'yes', give details.

(2) Have any of the above persons been -

a) refused membership of any securities or derivatives organization? Yes / No.

If 'yes', give details

b) expelled from or suspended from trading on or membership of any securities orderivatives organization or any over the counter platform? Yes/No.

If 'yes' give details

c) subjected to any other form of disciplinary action by any stock/securities or derivatives exchange?

Yes/No.

If 'yes', give details.

REFERENCE

24. Business references:

Name	Address	Telephone number (s)	Occupation
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25. One bank reference, (where the applicant is a bank' the reference shall be given by another bank independent of the applicant

ADDITIONAL INFORMATION

26. Any other additional information considered relevant to this application:

We..... (Director)
..... (Director) and
..... (Secretary)

declare that all the information given in this application and in the attached documents is true and correct

. Dated this day of 20

Signed:

.....) Director

.....) Director

.....) Secretary

SECOND SCHEDULE

[rr. 5, 6, 7(1), 10(1)(a), 94(3), 153(1), (2)]

REQUIREMENTS FOR FORMATION DOCUMENTS

PART 1—COMPANY

1. The incorporation documents shall —
 - (a) contain the statements required by paragraph 2;
 - (b) contain provisions made in accordance with paragraphs 3 and 4; and
 - (c) be accompanied by a prospectus complying with the provisions of regulations issued in terms of Part IV on offer documents in these Regulations.
2. The statements referred to in paragraph 1(a) are—
 - (a) the head office of the company is situated in Kenya;
 - (b) the company is an investment company;
 - (c) the shareholders are not liable for the debts of the company;
 - (d) the assets under management is entrusted to a custodian for safekeeping, subject to any exceptions permitted by scheme regulations; and
 - (e) charges or expenses of the company that may be taken out of the assets under management.
3. (1) The incorporation documents shall provide for the following matters—
 - (a) the objects of the company;
 - (b) any matter relating to the procedure for the appointment, retirement and removal of a director of the company which is not provided for in these regulations; and
 - (c) the currency in which the accounts of the company are to be prepared.(2) Subject to subparagraph (3), the provisions referred to in subparagraph (1)(a) as to the object of an investment company shall be a statement that the object of the company is to invest the assets under management in property of a kind described in the statement, the holding of which is consistent with any requirements of these regulations, with the aim of spreading investment risk and giving its shareholders the benefit of the results of the management of that property.
 - (3) The object of the company may differ from that set out in subparagraph (2) only to the extent that it provides for restriction of the range of property in which investment may be made.
4. (1) The incorporation documents shall also contain the following matters—
 - (a) the name of the company;
 - (b) the category, if any is specified in these regulations, to which the company belongs;

- (c) the maximum and minimum sizes of the company's paid-capital which comprises the assets thereof less the liabilities;
- (d) the investment objectives of the company;
- (e) the classes of shares that the company may issue indicating, in the case of an umbrella company, which class or classes of shares may be issued in respect of each part of the assets under management that is pooled separately;
- (f) the rights attaching to shares of each class, including any provision for the expression in two denominations of such rights;
- (g) if the company is to be able to issue investment shares, a statement to that effect together with details of any limitations on the classes of the company's shares which are to include investment shares;

PART II—TRUST

1. The registration documents, trust deed and any supplemental deed thereto shall contain a statement of the name of the scheme which shall be a name not inconsistent with the approved scheme's status under Regulation 13.
2. A statement—
 - (a) in all cases of the relevant category of approved collective investment schemes to which the scheme belongs, in so far as categories are specified, under scheme regulations; and
 - (b) in the case of an umbrella fund, identifying, in the case of each constituent part, to which of the relevant categories in so far as categories are specified, that part would belong if it were itself the subject of a separate approval under Regulation 15.
3. A statement that the registration documents are made under and governed by the laws of Kenya.
4. A statement that the registration documents are binding on each participant as if he or she had been a party to it and is bound by its provisions and authorises and requires the trustee and the fund manager to do the things required or permitted of them by the terms of the deed.
5. A statement of what currency is the base currency of the scheme.
6. A statement that, subject to any restriction in these regulations or the trust deed, the scheme has the power to invest in any securities market approved by the Authority.
7. A declaration that, subject to the provisions of the registration documents and all scheme regulations for the time being in force—
 - (a) the property of the scheme, other than sums standing to the credit of the distribution account, is held by the trustee in trust for the participants on an equal basis according to the number of participatory interests held by each participant or, in the case where income and accumulation participatory interests are both in issue, according to the number of undivided shares in the property of the scheme represented by the participatory interests held by each participant ; and

- (b) the sums standing to the credit of the distribution account are held by the trustee on trust to distribute or apply them in accordance with this Schedule.
- 8. A provision that a participant is not liable to make any further payment after he or she has paid the purchase price of his or her units, and that no further liability can be imposed on him or her in respect of the units which he or she holds.
- 9. If the scheme is to terminate after the expiration of a particular period, a statement to that effect.
- 10. A statement—
 - (a) authorising the fund manager to make a preliminary charge to be included in the issue price of a unit; and
 - (b) specifying a maximum to that charge expressed either as a fixed amount in the base currency or as a percentage of the creation price of a unit.
- 11. A statement authorising the fund manager to make a periodic charge payable out of the property of the scheme, and any statement under this paragraph must where applicable—
 - (a) provide for the charge to be expressed as an annual percentage, to be specified in the incorporation documents and taken in accordance with this Schedule, of the value of the property of the scheme and the statement may provide for the addition to the charge of value added tax, if any, payable on it;
 - (b) specify the accrual intervals and how the charge is to be paid; and
 - (c) specify a maximum to that charge expressed as an annual percentage to the value of the assets under management.
- 12. A statement authorising the fund manager of an umbrella fund to make a percentage charge or a charge of a fixed amount on the exchange of units in one constituent part for units in another (other than the first such exchange by a participants in any one annual accounting period) and specifying what the maximum of that percentage or amount may be.
- 13. A statement authorising the fund manager to charge on redemption out of the proceeds of redemption.
- 14. A statement authorising any payments to the trustee, by way of remuneration for his or her services to be paid, in whole or in part, out of the assets under management and—
 - (a) specifying the basis on which that remuneration is to be determined;
 - (b) how it should accrue and be paid; and
 - (c) the maximum remuneration payable.
- 15. If there are to be any restrictions on the geographic areas or economic sectors in which investment of the assets under management may be made, a statement of what they are.

16. A provision that participants in the scheme apart from the fund manager shall be confined to persons who hold participatory units such that any gain accruing upon their disposal at any time will be wholly exempt from income tax in Kenya otherwise than by reason of residence.
17. The trust deed shall contain—
 - (a) a provision authorising the issue of a document evidencing ownership accompanied by a statement of how the participants are to identify themselves; and
 - (b) a provision authorising the trustee to charge a fee for issuing any document recording, or for amending, an entry on the register, otherwise than on the issue or sale of participatory interests.
18. Any provision—
 - (a) dealing with a matter not referred to in this Part, the Schedule the inclusion of which serves to enable the scheme, the fund manager or the trustee to obtain any privilege or power conferred by these regulations; or
 - (b) which is expressly contemplated in these regulations.
19. Any provision, which in all material respects has the same effect as a provision contained, at the time when the provision is made, in this Act or in scheme regulations.
20. A provision authorising grouping for equalisation under these regulations and, if grouping is to be permitted for periods within an accounting period, what those periods are to be.

PART III – PARTNERSHIPS

1. The incorporation documents shall —

- (a) contain the statements required by paragraph 2;
- (b) contain provisions made in accordance with paragraphs 3 and 4; and
- (c) be accompanied by a prospectus complying with the provisions of regulations issued in terms of Part IV on offer documents in these Regulations.

2. The statements referred to in paragraph 1(a) are—

- (a) the head office of the company is situated in Kenya;
- (b) the limited liability partnership;
- (c) the limited partners are not liable for the debts of the limited liability partnership;
- (d) the assets under management is entrusted to a custodian for safekeeping, subject to any exceptions permitted by scheme regulations; and
- (e) charges or expenses of the company that may be taken out of the assets under management.

3. (1) The incorporation documents shall provide for the following matters—
 - (a) the objects of the limited liability partnership;
 - (b) any matter relating to the procedure for the appointment, retirement and removal of a partner of the limited liability partnership which is not provided for in these regulations; and
 - (c) the currency in which the accounts of the company are to be prepared.
- (4) Subject to subparagraph (3), the provisions referred to in subparagraph (1)(a) as to the object of a limited liability partnership shall be a statement that the object of the limited liability partnership is to invest the assets under management in property of a kind described in the statement, the holding of which is consistent with any requirements of these regulations, with the aim of spreading investment risk and giving its shareholders the benefit of the results of the management of that property.
- (5) The object of the limited liability partnership may differ from that set out in subparagraph (2) only to the extent that it provides for restriction of the range of property in which investment may be made.
4. (1) The incorporation documents shall also contain the following matters—
 - (a) the name of the limited liability partnership;
 - (b) the partners contributions;
 - (c) the investment objectives of the limited liability partnership

THIRD SCHEDULE

(rr. 2, 21)

CONTENTS OF THE OFFER DOCUMENTS/PARTICULARS OF INFORMATION
MEMORANDUM

(NOTE: This list is not intended to be exhaustive. The fund manager, trustee or custodian, as the case may be are obliged to disclose any information, which may be necessary for investors to make an informed judgment).

1. Prominent statement

Prominent statement on the period for which the information memorandum is valid.

2. Disclaimer

The following statement shall be contained on the front cover of the information memorandum:

"Permission has been granted by the Capital Markets Authority to offer to the public the securities which are the subject of this issue. As a matter of policy, the Authority assumes no responsibility for the correctness of any statements or opinions made or reports contained in this information memorandum".

3. The Collective Investment Scheme

State -

- (a) name of the collective investment scheme;
- (b) legal form the collective investment scheme;
- (c) duration of the collective investment scheme i.e. unlimited or limited and when it may terminate;
- (d) that the participants are not liable for the debts of the collective investment scheme;
- (e) particulars of registration of the collective investment scheme;
- (f) official address of its head office and its branch office;
- (g) the address for service of documents, if different from (f);
- (h) the date of the approval granted by the Authority to operate as a collective investment scheme;
- (i) the base currency for the collective investment scheme; and
- (j) the circumstances in which the collective investment scheme may be wound up under the regulations and a summary of the procedure for, and the rights of the holders under, such a winding up;

4. Investment Objectives and Policy

- 1) Give sufficient information to enable a participant to ascertain-
 - (a) the investment objectives (e.g. capital growth or income) of the collective investment scheme or of each sub-fund of an umbrella scheme;
 - (b) the collective investment scheme's investment policy for achieving investment objectives referred to under (a) including the general nature of

the portfolio and any intended specialisation (e.g. economic sector, geographical area or type of investment),

- (c) the extent (if any) to which the policy under (b) does not envisage remaining fully invested at all times; and
- (d) any restrictions in the range of transferable securities in which investment may be made, including restrictions in the extent to which the collective investment scheme may invest in any category of investment, indicating (where appropriate) where the restrictions are tighter than those imposed by the Regulations.

- 2) Where all or part of the remuneration of the fund manager is to be treated as a capital charge, it must be made clear that the investment objectives of the collective investment scheme are to treat the generation of income as a higher priority than capital growth or as the case may be, to place equal emphasis on the generation of income and on capital growth and that (in either case) this may accordingly constrain capital growth;
- 3) List any individual eligible securities markets through which the collective investment scheme may invest or deal;
- 4) State the extent (as a percentage of the total) to which the collective investment scheme intends to invest its assets in any one security or sector and whether or not it has done so;
- 5) State the policy in relation to the exercise of borrowing powers by the collective investment scheme;
- 6) In the case of a collective investment scheme which may invest in other collective investment schemes, state the extent to which the collective investment scheme portfolio may be invested in the shares of collective investment schemes, which are managed by the fund manager or by an associate of the fund manager.

5. Distributions

State-

- (a) that 1 January to 31 December each year shall be the collective investment scheme's annual accounting period;
- (b) if there are interim accounting periods, what they are and the policy in relation to interim distributions (whether interim distribution will be made and if so, the policy on smoothing of income distributions within an annual accounting period);
- (c) the date or dates in each year on or before which payment or accumulation of income is to be made or take place;
- (d) if applicable, the policy on payment of income equalisation;
- (e) how distributable income is determined, and
- (f) if applicable, that unclaimed distributions may be forfeited and summarise the relevant provisions of the instrument of incorporation;

6. The characteristics of participatory interests in the collective investment scheme

State-

- (a) where there is more than one class of participatory interests in issue or available for issue, the names of such classes, the rights attached to each class in so far as they vary from the rights attached to other classes;
- (b) how participants may exercise their voting rights and what these are,
- (c) method for conversion between shares of different classes; and
- (d) Circumstances, if any, in which a mandatory redemption, cancellation or conversion of shares from one class to another may be required.

7. The Fund Manager

State the following particulars of the fund manager:

- (a) name;
- (b) the nature of corporate form;
- (c) the date of incorporation;
- (d) the address of registered office;
- (e) the address of head office if different from (d);
- (f) if it is a subsidiary, the name and place of incorporation of ultimate holding company;
- (g) the amount of issued share capital and how much of it is paid up;
- (h) the date of the Authority's approval to operate as fund manager;
- (i) whether the fund manager is in any capacity in relation to any other regulated collective investment schemes and if so the names of the schemes and the nature of the capacity in relation to those schemes;
- (j) a summary of the material provisions of the contract between the collective investment scheme and the fund manager which may be relevant to the participants including provisions relating to terminations, compensation on termination and indemnity.

8. Directors of an investment company

State-

- (a) the names and positions of the directors in the collective investment scheme;
- (b) the main business activities of each of the directors (other than those connected with the business of the investment company);
- (c) the manner, amount and calculation of the remuneration of directors;
- (d) in summary form, the main terms of each contract of service between the investment company and a director;
- (e) if the director is a body corporate in a group of which any other corporate director of the investment company is a member, a statement of that fact.

9. The Trustee or Custodian

State the following particulars on the trustee or custodian-

- (a) Name and address;

- (b) the date of incorporation;
- (c) if it is a subsidiary, the name of its ultimate holding company and its place of incorporation;
- (d) the address of its registered office (if different from (a));
- (e) the address of its head office (if different from (a) and (d));
- (f) a description of its principal business activity;
- (g) a summary of the material provisions of the contract between the fund manager and the trustee or custodian, which may be relevant to participants including provisions relating to the remuneration of the trustee or custodian, if applicable.

10. The Auditor

State the name and address of the auditor of the collective investment scheme.

11. The Register of Participants

State the address in Kenya where the register of the participants is kept and can be inspected by the participants.

12. Payments to the Fund Manager

State the payments that may be made to the fund manager out of the collective investment scheme portfolio whether by way of remuneration for its services or reimbursement of expenses.

For each category of remuneration, specify -

- (a) the current amounts of such remuneration;
- (b) how will it be calculated and accrue and when it will be paid;
- (c) notice to be given to participants of the fund manager's intention to introduce a new category of remuneration for its services or to increase any amount currently charged, particulars of that increase and when it will take place;
- (d) whether all or part of the remuneration is to be treated as a capital charge and that fact, and
 - (i) the actual or maximum amount of the charge which may be so treated and
 - (ii) if notice has been given to shareholders of an intention to propose an increase in the maximum amount of that charge at a meeting of participants, particulars of that proposal.

13. Other Payments out of the Collective Investment Scheme Portfolio

Provide details of -

- (a) any liability of the collective investment scheme to reimburse costs incurred by any of its directors, its trustee, custodian or any third party;
- (b) any remuneration payable by the collective investment scheme to any third party;
- (c) the types of other charges and expenses that may be taken out of the collective investment scheme portfolio.

14. Movable and immovable property

Give an estimate of any expenses likely to be incurred by the collective investment scheme in respect of movable and immovable property in which the collective investment scheme has an interest.

15. Sale and redemption of participatory interests

State -

- (a) the dealing days and times in the dealing day on which the fund manager will be available to receive requests for the issue and redemption of shares;
- (b) the procedures for effecting the sale and redemption of shares and the settlement of transactions;
- (c) whether certificates will be issued in respect of registered shares;
- (d) the steps required to be taken by a participant in redeeming shares before he can receive the proceeds;
- (e) the circumstances in which the redemption of shares may be suspended;
- (f) the days and time on which recalculation of the price will commence;
- (g) the amounts of the following minima (if they apply) for each type of share in the collective investment scheme -
 - i. the minimum number of shares or units which any one person may hold;
 - ii. the minimum number of shares which may be the subject of any one transaction of shares or redemption;
 - iii. the minimum value of shares which may be subject of any one transaction of sale or redemption;
- (h) the circumstances in which the fund manager may arrange for, and the procedure for, a cancellation of shares;
- (i) where the most recent price will be published and how often the prices will be published;
- (j) the time period for the trustee or custodian to pay the repurchase price of the shares to the participant.

16. Valuation of the collective investment scheme portfolio

State-

- (a) how frequently and at what time of the day the collective investment scheme portfolio will be valued for the purpose of determining the price at which shares in the collective investment scheme may be purchased from or redeemed by the fund manager and a description of any circumstances in which the collective investment scheme portfolio may be specially valued;
- (b) the basis on which the collective investment scheme portfolio will be valued; and
- (c) how the price of the shares of each class will be determined.

17. Dilution levy

State, where applicable-

- (a) what is meant by dilution and by dilution levy.
- (b) the fund manager's policy on imposing a dilution levy.

18. Initial charge

Where the fund manager makes a preliminary charge state-

- (a) the current amount or rate of the initial charge; and
- (b) if notice has been given to participants of the fund manager's intention to introduce an initial charge or to increase the rate or amount currently charged, particulars of that introduction or increase and when it will take effect.

19. Redemption charge

Where the fund manager makes a redemption charge, state-

- (a) the amount of that charge, or if it is a variable, the rate or method of arriving at it;
- (b) if the amount or rate or method has been changed, that the details of any previous amount or rate or method may be obtained from the fund manager on request;
- (c) if notice has been given to participants of the fund manager's intention to introduce a redemption charge or to propose a change in the rate or amount or method which is adverse to the participants, particulars of that proposal;
- (d) how the order in which shares acquired at different times by a participant shall be determined insofar as necessary for the purposes of the imposition of the redemption charge.

20. Disclosure of any other fees and charges

Disclose all the fees and charges that relates the Collective investment scheme

- (a) a description of the fees and charges
- (b) how the fees and charges are calculated
- (c) when the fees and charges are levied.
- (d) whether participants must approve the fees and charges proposed to be levied.

21. General information

State-

- (a) when annual and half yearly reports will be published;
- (b) the address at which copies of incorporation documents, any amending instrument and most recent annual and half yearly reports may be inspected and from which copies may be obtained.

22. Umbrella collective investment scheme

- (a) State, in the case of an umbrella collective investment scheme-
 - (i) whether or not a participant is entitled to exchange participatory interests in one sub-fund for shares in any other sub-fund;

- (ii) whether or not an exchange of participatory interests in one sub fund for participatory interests in any other sub-fund is treated as a redemption and a sale and will be subject to taxation on capital gains or withholding tax as the case may be;
 - (iii) subject to (i) and (ii), that in no circumstances will a participant who exchanges participatory interests in one sub-fund for participatory interests in any other sub fund be given a right by law to withdraw from or cancel that transaction;
 - (iv) what charges, if any, may be made on exchanging participatory interests in one sub-fund for participatory interests in another sub-fund;
 - (v) the policy for allocating between sub-funds any assets of, or costs, charges and expenses payable out of the collective investment scheme portfolio, which are not attributable to any particular sub fund;
 - (vi) in respect of each sub fund, the currency in which the deposited collective investment scheme portfolio allocated to it will be valued and the price of participatory interests calculated and payments made, if this
 - (vii) currency is not the base currency of the umbrella collective investment scheme; and
 - (viii) if there are participatory interests in respect of less than two sub funds in issue the effect of Regulation 81.
- (b) In the application of this Schedule to an umbrella scheme, information required—
- (i) shall state in relation to each sub fund where the information for any sub fund differs from that for any other fund;
 - (ii) shall state for the scheme as a whole but only where the information is relevant to the collective investment scheme as a whole;
 - (iii) shall contain a statement to the effect that the sub funds of an umbrella scheme are not 'ring fenced' and the event of an umbrella scheme being unable to meet liabilities attributable to any particular sub-fund out of the assets attributable to such sub-fund, the excess liabilities may have to be met out of the assets attributable to other sub-funds.

23. Marketing outside Kenya

(List other countries in which marketing and selling of collective investment participatory interests will occur)

An information memorandum which is prepared for the purpose of marketing participatory interests in states outside Kenya shall state the following –

- (a) that all formalities and requirements of such country have been fulfilled;
- (b) what special arrangements have been made-
- (c) for paying in that country amounts distributable to holders residing in that country;
- (d) for redeeming in that country, the participatory interests of holders resident in that country;
- (e) for inspecting and obtaining copies in that country of the incorporation

documents and the amendments thereto, of the information memorandum and of the annual and half yearly reports, and

- (f) for making public the prices of shares of each class.
- (g) how the fund manager will publish in that country the following information:
 - (h) that annual and half yearly reports are available for inspection;
 - (i) that a distribution has been declared;
 - (j) that amendments have been made to the incorporation documents,
 - (k) that the information memorandum has been revised or that changes have been made to the arrangements under paragraph (a).

The information memorandum will state that the participatory interests are to be marketed in that country.

24. Disclosure of risks

The information memorandum shall disclose all the risks associated in investing in the collective investment scheme and how the risks have been mitigated.

25. Additional information

State any other material information which is within the knowledge of the fund manager or which the fund manager should have obtained by making of reasonable inquiries-

- (a) which investors and their advisers would reasonably require and reasonably expect to find in an information memorandum to enable them make an informed judgement about the merits of investing in the collective investment scheme and the extent and characteristics of the risks accepted by so participating; and
- (b) in the case of an investment company information on whether there is a minimum subscription value which must be raised during the limited offer period.

FOURTH SCHEDULE

[r. 22(1)]

*KEY INVESTOR INFORMATION DOCUMENT**General*

1. Key investor information shall include appropriate information about the essential characteristics of the scheme concerned, which is to be provided to investors so that they are reasonably able to understand the nature and the risks of the investment product that is being offered to them and, consequently, to take investment decisions on an informed basis.
2. (a) Key investor information shall provide information on the following essential elements in respect of the scheme concerned:
 - (i) identification of the scheme;
 - (ii) a short description of its investment objectives and investment policy;
 - (iii) past-performance presentation or, where relevant, performance scenarios;
 - (iv) costs and associated charges; and
 - (v) risk/reward profile of the investment, including appropriate guidance and warnings in relation to the risks associated with investments in the relevant scheme.
- (b) Those essential elements shall be comprehensible to the investor without any reference to other documents.
3. Key investor information shall clearly specify where and how to obtain additional information relating to the proposed investment, including but not limited to where and how the prospectus and the annual and half-yearly report can be obtained on request and free of charge at any time, and the language in which such information is available to investors.
4. Key investor information shall be written in a concise manner and in nontechnical language. It shall be drawn up in a format, allowing for comparison, and shall be presented in a way that is likely to be understood by retail investors.
5. Key investor information shall be used without alterations or supplements, except for translation.

Pre-contractual information.

1. Key investor information shall constitute pre-contractual information. It shall be fair, clear and not misleading. It shall be consistent with the relevant parts of the information memorandum.
2. A person shall not incur civil liability solely on the basis of the key investor information, unless it is misleading, inaccurate or inconsistent with the relevant parts of information memorandum. Key investor information shall contain a clear warning in this respect.

Timing of provision of key investor information

1. An investment company and, for each scheme it manages, a fund manager which sells participatory interests directly or through another person who acts on its

behalf and under its full and unconditional responsibility shall provide investors with key investor information on the relevant scheme in good time before their proposed subscription of participatory interests in the scheme.

2. An investment company and, for each scheme it manages, a fund manager which does not sell participatory interests directly or indirectly to investors shall provide key investor information to intermediaries selling or advising investors on potential investments in such scheme or in products offering exposure to such scheme upon their request. The intermediaries selling or advising investors or potential investors in the scheme shall provide key investor information to their clients or potential clients and comply with regulation 22.

Medium of provision of key investor information

1. Investment companies and, for each scheme that they manage, fund managers, may provide key investor information in a durable medium.
2. In addition, an up-to-date version of the key investor information shall be made available on the website of the investment company or fund manager.

Key investor information to the Authority

1. Investment companies and, for each scheme that they manage, fund managers shall send key investor information and any amendments thereto to the Authority.
2. The essential elements of key investor information shall be kept up to date.

FIFTH SCHEDULE

[r. 10(2)(e)]

RISK MANAGEMENT POLICY AND RISK MEASUREMENT (Reg. 10(e))

PART A: RISK MANAGEMENT POLICY

1. In addition to the requirements of the Corporate Governance Regulations, all fund managers shall establish, implement and maintain an adequate and documented risk management policy, which identifies the risks that the collective investment schemes are or might be exposed to and mitigation measures thereto.
2. The risk management policies shall comprise such procedures as are necessary to enable the fund manager to assess each collective investment scheme it manages, the exposure of that collective investment scheme to market, liquidity and counterparty risks, and the exposure of the collective investment scheme to all other risks, including operational risks, which may be material to each collective investment scheme it manages.
3. Fund managers shall address at least the following elements in risk management policy:
 - (a) the techniques, tools and arrangements that enable them to comply with the obligations as set out in this schedule; and
 - (b) the allocation of responsibilities within the fund manager pertaining to risk management.
4. Fund managers shall ensure that the risk management policy referred to in this schedule states the terms, content and frequency of reporting of the risk management function to its senior management, and where appropriate, to the supervisory function.
5. For the purposes of the risk management policy, fund managers are required to take into account the nature, scale and complexity of their business and of the collective investment schemes they manage.

PART B: MEASUREMENT AND MANAGEMENT OF RISK

6. Fund managers shall adopt adequate and effective arrangements, processes and techniques in order to measure and manage at any time the risks, which the collective investment schemes they manage are or might be exposed to.
7. The arrangements processes and techniques referred to in paragraph 8 shall be proportionate to the nature, scale and complexity of the business of the fund manager and of the collective investment schemes they manage and be consistent with the risk profile of the collective investment schemes.
8. For the purposes of this schedule, fund managers are required to take the following actions for each collective investment scheme they manage:
 - (a) put in place such risk management arrangements, processes and techniques as are necessary to ensure that the risks of positions taken and their contribution to the overall risk profile are accurately measured on the basis of sound and reliable data and that the risk management arrangements, processes and techniques are adequately documented;

- (b) conduct, where appropriate, periodic stress tests and scenario analyses to address risks arising from potential changes in the market conditions that might adversely affect the collective investment schemes;
- (c) establish, implement and maintain a documented system of internal limits concerning the measures used to manage and control the relevant risks for each collective investment scheme taking into account all risks which may be material to the collective investment scheme and ensuring consistency with the risk profile of the collective investment scheme;
- (d) ensure that the current level of risk complies with the risk limits system as set out in paragraph (e) for each collective investment scheme;
- (e) establish, implement and maintain adequate procedures to ensure that in the event of actual or anticipated breaches to the risk limits system of the collective investment scheme, timely remedial action in the best interests of participants will result.

9. Liquidity risk management

- (a) Fund managers are required to employ adequate liquidity risk management processes in order to ensure that each collective investment scheme that they manage is able to comply at any time with its redemption obligations amongst other things. Where appropriate, fund manager shall conduct stress tests, which enable assessment of the liquidity risk of the collective investment schemes under exceptional circumstances.
- (b) Fund managers shall ensure that for each collective investment scheme they manage, the liquidity profile of the investments of the collective investment scheme is appropriate to the redemption policy, obligations and liabilities laid down in the incorporation documents and information memorandum.

10. Fund managers are required to assess, monitor and periodically review:

- (a) the adequacy and effectiveness of the risk management policy and of the arrangements processes and techniques referred to in this schedule;
- (b) the level of compliance by the fund manager with the risk management policy and with arrangements processes and techniques referred to in this schedule; and
- (c) the adequacy and effectiveness of procedures taken to address any deficiencies in the performance of the risk management process.

11. Fund managers shall notify the Authority of any material changes to the risk management process.

PART C: AUDIT

- 12. The review of the maintenance and implementation of risk management policy shall be a part of internal audit.
- 13. The internal auditors shall check the adequacy on a continuing basis. Their reports shall be presented to the senior management and the board of the fund manager and the trustee or custodian who shall comment on the

adequacy of the systems in the annual and half-yearly reports filed with the Authority.

14. In the event of any conflict between a provision of this Schedule and a provision of the Corporate Governance Regulations, the Authority shall apply and implement the provision, which in its reasonable opinion best advance the objects of these regulations.

SIXTH SCHEDULE

[rr. 126(1), 127(1), 133]

ANNUAL AND HALF-YEARLY REPORTS

Report of the fund manager

The following matters shall be set out in every annual report—

1. The names and addresses of the following—
 - (a) the fund manager;
 - (b) the trustee and custodian;
 - (c) any investment adviser;
 - (d) the registrar;
 - (e) the auditor;
2. the objectives of the scheme;
3. the fund manager's policy for achieving the objectives of the scheme;
4. a statement that the scheme is a licensed collective investment scheme within the meaning of the Act;
5. a statement of which the categories of scheme in regulation 8(1) the scheme belongs to and, in the case of an umbrella fund, this statement is to be made separately in relation to each constituent part;
6. a review of the fund manager's investment activities during the period to which the report relates;
7. particulars of any significant change in the information memorandum made since the making of the last report by the fund manager;
8. a statement of any subdivision or consolidation of participatory interests which has been effected during the period to which the report relates; and
9. any other significant information which would enable holders to make an informed judgment on the development of the activities of the scheme during this period and the results of those activities as at the end of that period.

Commissions paid on dealing

The statement of commissions paid shall specify the following information on dealings in the property of the scheme in relation to transactions effected through a broker or an agent of a broker—

- (a) the average rate of commission for such transactions;
- (b) the aggregate amount of the commissions paid to associates of the fund manager;
- (c) the aggregate amount of the commissions paid to associates of the trustee; and
- (d) the name of each broker who received more than 10% of the aggregate amount of the commissions paid.

Comparative table

The following matters shall be set out in the comparative table included in the report of the fund manager—

- (a) a performance record of the last five annual accounting periods, or if the scheme has not been in existence during the whole of that period, over the whole period in which it has been in existence, showing the highest price and the lowest price of the participatory interests during each of those years, the net income per participatory interest distributed or, in the case of accumulation participatory interests, allocated during each of those years taking account of any sub-division or consolidation of participatory interests that occurred during that period;
- (b) over the last three annual accounting periods (or, if the scheme has not been in existence during the whole of that period, over the whole period in which it has been in existence) the total net asset value of the property of the scheme at the end of each of those years and the net asset value per participatory interest and the number of participatory interests in existence or deemed to be in existence at the end of each of those years;
- (c) if, in the period covered by the table—
 - (i) the scheme has been the subject of an amalgamation or reconstruction having, to a significant extent, an effect on the size of the scheme; or
 - (ii) there have been changes in the investment objectives of the scheme,an indication, related in the body of the table to the relevant year in the table, of the date of the amalgamation or reconstruction or change in investment objectives, and a brief description of its nature.

Report of the auditor

The report of the auditor to the participants for any annual accounting period shall state—

Report of the trustee or custodian

The report of the trustee or custodian to the participants for any annual accounting period shall state whether in the trustee's or custodian's opinion, the fund manager has managed the scheme in that period—

- (a) in accordance with the limitations imposed on the investment and borrowing powers of the fund manager and trustee or custodian by the incorporation documents and these regulations;
- (b) otherwise, than in accordance with the provisions of the trust deed and those regulations; and
- (c) if he or she has not done so, the respects in which the fund manager has not done so, and the steps which the trustee or custodian has taken in that respect.

*Total expense ratio**1. Definition*

"total expense charged" shall include all annual operating costs of the scheme with the exception of brokerage on scheme transactions and currency gains/losses on the scheme portfolio.

2. For each annual set of audited accounts, the fund manager shall calculate and disclose the total expense ratio of the scheme both in cash terms and as a percentage of total annual average net asset value of the fund.
3. The total expense ratio is calculated as follows:

Total expenses charged divided by the actual amount of the management fee charged times the percentage management fee = TER

SEVENTH SCHEDULE

[rr. 11, 17, 33(g), 34(1), (2), 66(n), 67(1), (2), 77(1)(o), (2), (3)]

FEEs

Application fees	Ksh. 10,000
Annual fees for the collective investment scheme	Ksh. 250,000
Licensing fees and annual approval fees for the Intermediary Service Platform Provider	Ksh. 50,000
Licensing fees and annual regulatory fees for the Custodian/Trustee	Ksh. 100,000

Dated the 3rd October, 2023.

NJUGUNA NDUNG'U,
*Cabinet Secretary for the
National Treasury and Planning.*

