



NAIROBI STOCK EXCHANGE LIMITED

**LISTING**

**MANUAL**

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# INTRODUCTION

The purpose of this Manual is to set out the operational and procedural rules issued by the Nairobi Stock Exchange Limited for the purpose of ensuring orderliness, efficiency of the market in the initial admission of securities to the Official list of the Exchange, the listing of additional shares, and the continuing listing obligations in compliance with the Capital Markets Act and the Regulations and Guidelines issued thereunder.

This Manual is divided into six main parts.

Part I sets out the constitution and mandate of the Committee with respect to admission to listing, suspension and de-listing of securities under the general direction of the Board. This Part also sets out the procedures for admission to listing, suspension and de-listing of securities.

Part II outlines the requirements relating to Sponsoring Stockbrokers who shall undertake to accept the responsibilities laid out in Part 1 of Schedule 4 under Part VI of these rules.

Part III explains the methods of listing securities on the exchange, the market segments, eligibility and disclosure requirements for listing of securities.

Part IV outlines the continuing listing obligations, which an issuer is required to observe.

Part V consists of Appendices stipulating the statutory requirements prescribed by the Authority to be complied with by issuers.

Part VI outlines the Schedules and Forms.

## DEFINITIONS

The definitions contained herein shall apply to this Listing Manual and shall be as prescribed under the Capital Markets Act (Cap. 485A) and where appropriate, are repeated verbatim. In relation to an issuer which is not a company, unless the context requires, reference in this Listing Manual to a company, and expressions appropriate to a company shall be construed as references to the issuer or to the corresponding persons, places, documents or organs, as the case may be, appropriate to the issuer.

**Act** refers to the Capital Markets Act, Cap 485A and includes the Regulations and Guidelines issued thereunder;

**Additional Issue** means a capitalisation, rights , scrip dividend or bonus issue;

**Allotment Committee** means a committee comprising representatives of the issuer and advisors whose mandate it is to oversee allotment of securities;

**Alternative Investment Market Segment** means a market segment for which securities of issuers that satisfy the eligibility requirements prescribed under regulation 7(1)(b) of the Capital Markets (Securities) (Public Offers, Listing and Disclosure) Regulations, 2002 and set out in the First Schedule of Part V of these rules, are listed;

**Associated Person** has the meaning assigned to it in Section 3 of the Capital Markets Act;

**Books Closing Date** refers to the day (including time) set by a company for purposes of determining members for the issue of entitlements;

**Borrowing Company** means an issuer with respect to debt securities;

**Board** refers to the Board of Directors of the Nairobi Stock Exchange Limited as prescribed by the Capital Markets Act;

**Capitalisation or bonus issue** is an issue of fully paid shares capitalised from the issuer's share premium, capital redemption reserve fund or reserves (or combinations thereof) to existing shareholders of the issuer in proportion to their shareholdings at a specific date;

**Central Depository** means a company approved by the Authority under section 5 of the Central Depositories Act, 2000 to establish and operate a system for the central handling of securities -

- (a) whereby all such securities are immobilised or dematerialised and dealings in respect of those securities are effected by means of entries in securities accounts without the physical necessity of certificates; or
- (b) which permits or facilitates the settlement or registration of securities transactions or dealings in securities without the physical necessity of certificates; and
- (c) to provide other facilities and services incidental thereto;

**Companies Act** means Chapter 486 of the Laws of Kenya;

**Convertible securities** are securities which are convertible into or exchangeable for other securities or securities accompanied by warrant or options to subscribe or purchase other securities and conversion and convertible shall be construed accordingly;

**Day** means calendar days excluding Saturdays and Sundays and public holidays unless stated otherwise;

**Debenture** in relation to loan securities means, debenture or debenture stock which in addition to any other security in respect thereof, are secured by a charge over the whole or substantially the whole of the assets and undertaking of the borrowing or guarantor companies;

**De listing** means removal of a security or a company from the Official List of The Exchange;

**Equity Securities** means ordinary shares, rights or interests (whether described as units, shares or otherwise) and rights or options to subscribe for any of the foregoing;

**Exchange** means Nairobi Stock Exchange Limited;

**Fixed Income Securities** include debentures or debenture stocks, secured or unsecured, within the meaning of the Companies Act, securities of the Government of Kenya, securities guaranteed by the Government of Kenya, corporate bonds and commercial papers;

**Fixed Income Securities Market Segment** means a market segment for which fixed income securities of issuers that satisfy the eligibility requirements prescribed under Regulation 7 (1) (c) of the Capital Markets (Securities) (Public Offers, Listing and Disclosure) Regulations 2002 and set out in the Second Schedule under Part V of these rules, are listed;

**Foreign investor** means any person who is not a resident of Kenya;

**Foreign issuer** means any body corporate incorporated outside Kenya and registered in Kenya;

**Guarantor Company**, used in relation to a Borrowing Company, means a Company that has guaranteed or has agreed to guarantee the repayment of any money received or to be received by the Borrowing Company in response to an invitation to the public to subscribe for or purchase loan securities of the Borrowing Company;

**IAS** means International Accountings Standards;

**Information memorandum** means any prospectus or document, notice, circular, advertisement, or other invitation in print or electronic form containing information on a company or other legal person authorized to issue securities or a collective investment scheme calculated to invite offers from the public or a section of the public to subscribe for the purchase of securities;

**Insider** means any person who is or was connected with a company, or is deemed to have been connected with a company and who is reasonably expected to have access, by virtue of

such connection, to unpublished information which, if made generally available, would be likely to materially affect the price or value of the securities of the company, or who has received or has had access to such unpublished information;

**Introduction** is a method of bringing securities to listing not involving an issue of new securities or any marketing of existing securities subject to compliance with the condition of listing in the relevant market segment;

**Investment Bank** means a non-deposit taking institution licensed by the Authority to advise on offers of securities to the public or a section of the public, takeovers, mergers, acquisitions, corporate restructuring involving companies listed or quoted on a securities exchange, privatisation of companies listed or to be listed on a securities exchange or underwriting of securities issued or to be issued to the public and to engage in the business of a stockbroker or dealer;

**Issuer** means a company or other legal entity incorporated in or established under the laws of Kenya that offers securities to the public or a section thereof, whether or not such securities are the subject of an application for admission or have been admitted to listing;

**Listed** means admitted to the Official List of the Exchange, and listing shall be construed accordingly;

**Listed Company** means an issuer any part of whose shares have been listed;

**Main Investment Market Segment** means a market segment for which securities of issuers that satisfy the eligibility requirements prescribed under Regulation 7 (1) (a) of the Capital Markets (Securities) (Public Offers, Listing and Disclosure) Regulations, 2002, and set out in the First Schedule of Part V of these rules, are listed;

**Market Segment** means a separate segment of the Official List established by a securities exchange, with the approval of the Authority, with respect to listings of securities for which specific eligibility and disclosure requirements are prescribed;

**Material Contract** is any contract the details of which would be necessary for the purpose of making an informed assessment of the financial position and prospects of the issuer;

**Material Information** means any information that may affect the price of an issuer's securities or influence investment decisions and includes information on –

- a) a merger, acquisition or joint venture;
- b) a block split or stock dividend;
- c) earnings and dividends 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) the 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 law suit against 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.

**Member** refers to a body corporate admitted to membership of the Nairobi Stock Exchange Limited in accordance with the Act and the rules of the Exchange;

**Offer Period** means a period **not exceeding ten working days** or such longer period as the Authority may approve during which an offer for subscription or sale of securities to the public remains open;

**Offer of securities** refers to an offer of securities, which, if accepted, would give rise to a contract for the issue or sale of securities by the offeror or by another person with whom the offeror has made arrangements for the issue or sale of the securities or if the

offeror invites a person to make such an offer, but not otherwise; and, except where the context otherwise requires, "offer" and "offeror" shall be construed accordingly;

**Offer to the public** refers to an offer is made to persons in Kenya which is made to the public. For this purpose, an offer which is made to any section of the public, whether selected as members or debenture holders of a body corporate, or as clients of the person making the offer, or in any other manner, is to be regarded as made to the public; and the terms "public offer" and "public offering" shall be construed accordingly;

**Offer for Subscription** is an invitation to the public by, or on behalf of, an issuer to subscribe for securities of the issuer not yet in issue or allotted and may be in the form of an invitation to tender at or above a stated price;

**Official List** means a list specifying all securities, which have been admitted for listing on any of the market segments of the Exchange;

**Placing Agent** means a Member of the Exchange appointed by an issuer to sell the issuer's securities to members of the public;

**Registrar** has the meaning assigned to it in Section 2 of the Companies Act;

**Related company** means a holding company, a subsidiary of another company or a subsidiary of the holding company of another company;

**Resident** of Kenya in relation –

- (a) an individual, means a Kenya citizen or a resident individual within the meaning of the Income Tax Act (Cap 470);
- (b) a body corporate, means a company incorporated under the Companies Act, or a foreign company registered under Part X of the Companies Act, or any other body corporate established or incorporated in Kenya under the provisions of any written law.

**Rights offer** is an offer to existing shareholders of securities to subscribe for or purchase further securities in proportion to their holdings made by means of the issue of a renounceable letter or other negotiable document which may be traded (as "nil paid" rights) before payment for the securities is due;

**Ruling price** means the closing price at the last trading session at which that security was traded before the day on which an announcement is made;

**Scrip Dividend** refers to new shares, which a shareholder elects to receive in lieu of a cash dividend where the shareholder is given the right to make such an election;

**Securities** means:

- a. debentures or bonds issued or proposed to be issued by a government;
- b. debentures, shares, or bonds issued or proposed to be issued by a body corporate;
- c. any right, warrant, option or futures in respect of any debenture, shares, bonds, notes or in respect of commodities;
- d. any unit, interest or share offered under a collective investment scheme; or
- e. any instruments commonly known as securities, excluding bills of exchange, promissory notes or certificates of deposits issued by a bank or financial institution licensed under the Banking Act.

**Share** means a share in the share capital of a body corporate, a unit in a unit trust or an interest in any collective investment scheme;

**Sponsoring Stockbroker** means a member of the Exchange appointed by an issuer in accordance with Rule 4;

**Subsidiary Company** means a company that is a member of another company in which:

- (i) the other company controls the composition of the first mentioned company's board of directors: or
- (ii) the other company holds more than half in nominal value of that company's equity share capital: or

(iii) the company is a subsidiary of any company which is the other company's subsidiary;

**Substantial Shareholder** means any person who is the beneficial owner of, or is in a position to exert control over, not less than fifteen per cent of the shares of a body corporate;

**The Authority** means the Capital Markets Authority established under section 5 of the Capital Markets Act;

**The Chief Executive** refers to the Chief Executive Officer of the Exchange;

**The Committee** means a committee of the Board of the Exchange acting as the Listing Committee constituted and assigned the mandate with respect to listing of securities under the general direction and guidance of the Board;

**Underwriting** means the purchase or commitment to purchase or distribute, by dealers or other persons approved by the Authority of any securities that have not been subscribed during the offer of securities to the public by the issuer;

# ***PART I***

## **PROCEDURE FOR ADMISSION TO THE OFFICIAL LIST, SUSPENSION AND DELISTING OF SECURITIES.**

This Part sets out the constitution and mandate of the Committee with respect to admission, suspension and de-listing of securities from the official list. This Part also sets out the procedures for admission to listing, suspension and de-listing of securities.

### *1. Constitution and general mandate of the Committee*

### *2. Procedure for admission to official list*

- *Procedure for admission to official list*
- *Over subscription*
- *Cross border listing*
- *Introductions*

### *3. Procedure for Suspension and de-listing of securities*

- *Procedure of suspension of securities of securities*
- *Voluntary Suspension*
- *Lifting of Suspension*
- *De-listing of securities*
- *De-listing of fixed income securities*
- *Voluntary De-listing*
- *Censure and financial penalties*

# 1

## CONSTITUTION AND GENERAL MANDATE OF THE COMMITTEE

1.1 The Committee shall be a committee constituted by the Board and assigned the following mandate with respect to the listing of securities:

- i) Subject to these rules, to review and recommend approval of applications for admission to listing of new and additional securities in any of the market segments;
- ii) To review the procedure for admission of securities to listing and make recommendations for amendment to these rules pursuant to the procedures provided under the rules of the Exchange;
- iii) To review compliance with continuing listing obligations by listed companies and make recommendations to the Board on the necessary action for non compliance including imposing penalties and other sanctions as provided under these rules;
- iv) To recommend suspension of listing of securities for a predetermined period as may be necessary and restoration of such securities to listing in line with the procedures provided in these rules;
- v) To identify impediments to listing of securities at the Exchange and make recommendations of ways and measures to address such impediments;
- vi) To make proposals on any incentives necessary to promote and attract listing of securities;
- vii) To review the listing fees on an annual basis and make recommendations on necessary revisions with a view to ensuring that listings are encouraged.

1.2 The committee shall, be subject to the right and power of the Board to review, vary, ratify or supplement its decisions. The committee shall make recommendations to the Board and the Board shall have the discretion to make and carry out the decisions on such recommendations.

# 2

## PROCEDURES FOR ADMISSION TO LISTING

### PROCEDURE FOR ADMISSION TO LISTING

- 2.1 An issuer shall submit an information memorandum or a prospectus (as the case may be) to the Authority for approval and a copy to the Exchange for comments through the sponsoring stockbroker.
- 2.2 An issuer shall submit its information memorandum or prospectus approved by the Authority to the Exchange.
- 2.3 The admission procedure shall be as follows:
  - (i) An issuer submits its application and prospectus for approval to the Authority with a copy to the Exchange through the sponsoring stockbroker.
  - (ii) The Exchange shall submit its comments, if any, to the Authority **within ten working days** of receipt of the copy of the application.
  - (iii) The Authority shall consider as appropriate the comments of the Exchange while granting approval to listing.
  - (iv) On receipt of a letter of approval to listing from the Authority in compliance with the Act, the Exchange shall approve the listing without any other conditions save the attainment of the prescribed minimum shareholding following a public offering or offer for sale, attainment of minimum subscriptions (if any) as disclosed in the information memorandum or prospectus, as the case may be, payment of listing fees and signing of the memorandum of listing.
  - (v) In case of Introductions and additional listings approved by the Authority, the Exchange shall admit securities to listing on payment of listing fees by the issuer without any further condition. The statutory requirements for additional issues prescribed by the Authority are set under Part V of these rules as the 'Fourth Schedule'.

- (vi) Other issues applicable to additional listings are set out in Schedule 2 under Part VI.
- (vii) The sponsoring stockbroker shall ensure the issuer complies with the documentation required under these rules.

## **Over subscription**

- 2.4 In the event of an over-subscription, the formula for the allotment shall be disclosed in the prospectus and shall be calculated in such a way that persons within the same category of applicants are treated in a fair and equal manner with regard to their applications and the allotment policy disclosed in the prospectus and approved by the Authority.
- 2.5 Where the issue is over-subscribed or where the proposed issue has been cancelled, the sponsoring stockbroker shall ensure that the subscription monies are refunded as soon as possible but **not later than five working days** of the cancellation or close of the allotment or as approved by the Authority.

## **Cross-border listing**

- 2.6 An issuer seeking to list securities that are already listed on a securities exchange outside Kenya pursuant to cross-border listing shall comply with the eligibility and disclosure requirements prescribed for the Main Investment Market Segment by the Authority and given in the First Schedule (Eligibility Requirements) and Part A of the Third Schedule (Disclosure Requirements) of Part V of these rules.
- 2.7 Such issuer shall make a public announcement of the cross-border listing and indicate the physical address where the prospectus approved by the Authority is available for collection and inspection by investors and the general public.

## **Introductions**

- 2.7 An issuer seeking to list securities at the exchange in Kenya that are already listed on a securities exchange outside Kenya pursuant to an Introduction shall comply with the eligibility and disclosure requirements prescribed for the Main Investment Market Segment by the Authority and given in the First Schedule (Eligibility Requirements) and Part A of the Third Schedule (Disclosure Requirements) under Part V of these rules. A letter of no objection will be required by the Authority from the Regulator in the issuer's home country.
- 2.8 The issuer shall make a public announcement of the introduction and indicate the physical address of the Registrar of the issuer and also state that the Regulator in the issuer's home country has no objection to the introduction.

# 3

## PROCEDURE FOR SUSPENSION AND DELISTING OF SECURITIES.

### PROCEDURE FOR SUSPENSION OF SECURITIES

- 3.1 The Exchange may, subject to the provisions of the Act if it is of the opinion that it is desirable to do so and/or if the issuer has failed to comply with the listing requirements, suspend a listing of securities or impose such conditions as it may in the circumstances deem appropriate in accordance with the procedures set out in these rules and subject to the approval of the Authority.
- 3.2 Suspension of securities from the Official list shall be subject to such time as predetermined by the Authority.
- 3.3 When a listing is suspended and the issuer fails to take the required action to obtain the restoration thereof within the time provided, the Exchange may recommend to the Authority de-listing of such securities.
- 3.4 Where a security has been suspended or delisted the Exchange shall publish such information in at least two local English dailies of national circulation.
- 3.5 The suspension procedure shall be as follows:
  - (a) The Committee shall recommend to the Board the suspension of a security from the Official list;
  - (b) The Chief Executive shall then notify the Authority within three hours of such recommendation, attaching a proposed draft press release for the approval of the Authority;
  - (c) The Authority shall respond before the next trading session giving its approval or recommending any other action;
  - (d) The Exchange shall post a notice at the Trading Floor of the suspension after the response from the Authority;
  - (e) The Exchange shall then notify the issuer of the suspension and reasons thereof.

- (f) A press release on the suspension shall then be made by the Chief Executive of the Exchange.

## **VOLUNTARY SUSPENSION**

3.6 The Exchange may with the approval of the Authority, grant a request for suspension of any listed securities, where an issuer requests for suspension to the Authority and the Exchange in writing, in the following circumstances:

- (i) Where a decision has been made or is imminent that will lead to the placing of the issuer of such securities under statutory management, liquidation, receivership or voluntary winding up;
- (ii) In the event of a significant restructuring involving the listed securities such as in the process of acquisition, mergers or takeovers approved by the Authority; or
- (iii) 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 at least 75% of such security holders are represented without objection to the proposed suspension from at least 10% of the holders of securities resolve to have the securities suspended; and
- (iv) Any other circumstance that the issuer considers important enough to suspend trading of its securities, with the approval of the Authority.

3.7 If an issuer's securities are suspended, it shall:

- (i) continue to comply with all the continuous listing obligations, unless expressly exempted from doing so by the Exchange or the Authority in writing;
- (ii) submit to the Exchange and the Authority as may be required, a progress report pertaining to the prevailing state of the affairs of the issuer and any proposed action by the issuer; and
- (iii) if the issuer is suspended for more than three months, advise its shareholders on a quarterly basis concerning the prevailing status of the affairs of the issuer and any proposed action by the issuer, including the expected date on which the suspension is to be lifted.

## **LIFTING OF SUSPENSION**

- 3.8 The following procedure shall apply where the lifting of suspension is required by the issuer:
- a. The issuer shall apply to the Exchange and the Authority demonstrating that it has complied with the conditions for lifting of the suspension;
  - b. The Committee shall review the request of the issuer and determine whether the suspension should be lifted and make a recommendation to the Board;
  - c. The Chief Executive of the Exchange shall then inform the Authority of the recommendation of the Exchange;
  - d. The issuer shall then be informed of the lifting of the suspension after the approval of the Authority; and
  - e. The Exchange shall then issue a public statement of the lifting of suspension and restoration of the securities of the issuer to listing and trading stating the approval of the Authority.

## **DELISTING OF SECURITIES**

- 3.9 Failure of the issuer to satisfy conditions for listing within the period predetermined by the Authority shall result in the securities of the issuer being de-listed. The maximum period of suspension in the case of restructuring scheme of the issuer's securities or operations shall be eighteen months unless extended by the Authority.
- 3.10 The Exchange shall in all cases of recommended de-listing, including voluntary de-listing, seek prior approval from the Authority before effecting any de-listing.
- 3.11 After approval of the Authority, the Exchange shall inform the issuer and make a public statement on the de-listing of securities stating the approval of the Authority for such action.

## DELISTING OF FIXED INCOME SECURITIES

3.12 Upon full redemption of a fixed income security, the Exchange shall de-list the security, and the same shall be communicated to the issuer and the Authority in writing.

## VOLUNTARY DELISTING

3.13 Issuers' voluntary de-listing shall comply with the procedure prescribed by the Authority under the Act and given hereunder.

3.14 (a) Any person directly or indirectly controlling the exercise of seventy five per cent or more of the votes attached to the voting shares of an issuer upon the passing of a special resolution in the manner prescribed in (b) below to remove such shares from the Official list, be deemed to have an intention to take-over such company and shall forthwith apply the procedures prescribed by the Authority for take-overs as a pre-condition to the removal from listing.

(b) A security considered by the Exchange to be eligible for continued listing shall not be removed from the list upon request or application of the issuer, unless the proposed withdrawal from listing is approved by the security holders at a meeting at which at least seventy five per cent of such security holders are represented, without objection to the proposed withdrawal from at least ten per cent of the security holders of the security provided however that the Exchange shall not oppose de-listing action by the issuer if:

(i) the Exchange shall have denied the listing of an additional amount of such security [within the preceding thirty days](#); and

(ii) following such action by the Exchange de-listing has been approved by a majority of the issuer's directors and the issuer has notified holders of such securities, in form satisfactory to the Exchange of the proposed de-listing prior to the application for the de-listing [at least thirty days](#) in advance of the date de-listing is effected.

- (c) Subject to these provisions, an issuer shall notify the Exchange and the Authority within twenty four hours of any decision by its board of directors to recommend to the holders of any listed security the de-listing of such listed security.

## **CENSURE AND FINANCIAL PENALTIES**

- 3.15 The Exchange shall impose such censure or penalties for non-compliance with the requirements prescribed in these rules and at such rates as are approved by the Authority and provided in Schedule 8.
- 3.16 All penalties shall be paid into the Exchange's Investor Compensation Fund.
- 3.17 Any issuer who has been the subject of any such censure or penalty and who is dissatisfied with such action may appeal to the Authority for review of the said action.
- 3.18 Upon any appeal the Authority may confirm, set aside or vary the action in question.
- 3.19 The Exchange shall inform the Authority of any censure or penalty imposed [within three days](#) of such action and include in its annual report details of any censure or penalties imposed during the year.
- 3.20 No censure or penalty may be imposed on an issuer who has already been censured or penalised by the Authority for the same malfeasance.

# ***PART II***

## **SPONSORING STOCKBROKERS**

This Part sets out the appointment, responsibility and obligations of the sponsoring stockbrokers. The sponsoring stockbrokers shall undertake to accept the responsibilities laid out in Part I of Schedule 4.

*4. Appointment*

*5. Responsibilities of the sponsoring stockbroker*

# 4

## APPOINTMENT

- 4.1 An issuer shall appoint one or more sponsoring stockbrokers when seeking listing of its securities on the Exchange and shall inform the Exchange in writing of this appointment.
- 4.2 Where more than one sponsoring stockbroker is appointed, the issuer shall state to the Exchange which sponsoring stockbroker has lead responsibility, as well as how responsibility is to be allocated for any specific application for listing.
- 4.3 Another sponsoring stockbroker shall be appointed:
- (i) where there is a possible conflict of interest;
  - (ii) where the sponsoring stockbroker is a subsidiary or an associate of the issuer;
  - (iii) where the director of the sponsoring stockbroker is an officer of the issuer, its subsidiary, or associate.
- 4.4 Where another sponsoring stockbroker is required under rule 4.3, such additional sponsoring stockbroker shall be the lead stockbroker of the issuer.
- 4.5 The issuer shall advise the Exchange in writing (with a copy to the Authority) of the appointment or dismissal of any sponsoring stockbroker **within two days** of such event taking place. If a sponsoring stockbroker is dismissed, the issuer shall **within two days** from the date of such dismissal, appoint a new sponsoring stockbroker where this is required.
- 4.6 The lead stockbroker shall, in consultation with the issuer appoint up to five co-sponsoring stockbrokers on an equitable basis subject to the size of the issue, at no extra cost to the issuer other than the agreed sponsoring stockbroker's fee.

# 5

## RESPONSIBILITIES OF A SPONSORING STOCKBROKER

- 5.1 The sponsoring stockbroker shall make a declaration in a format set out under Schedule 5 to the Exchange to accept the responsibilities as a sponsor and to discharge those responsibilities at all times to the satisfaction of the Exchange.
- 5.2 The responsibilities of a sponsoring stockbroker shall include the following:
- (i) to present the application for admission to listing to the Exchange.
  - (ii) to submit to the Exchange as soon as possible and, in any event, not later than the date on which any documents in connection with the issuer are submitted to the Exchange, a letter of appointment, a Memorandum of Listing and a declaration in the form set out in Schedule 5;
  - (iii) to provide to the Exchange any information or explanation known to it in such form and within such time limit as the Exchange may reasonably require for the purpose of verifying whether the requirements under these rules are being or have been complied with by the proposed issuer;
  - (iv) to facilitate, (where necessary) communication between the issuer, the Exchange and the Authority;
  - (v) to submit all documentation required in terms of Schedules 1 to 6 to the Exchange as applicable;
  - (vi) to ensure that the issuer is guided and advised on the application of the listing requirements prescribed by the Act and these rules;
  - (vii) to ensure the correctness and completeness of all documentation submitted to the Exchange and the Authority;

- (viii) to carry out any activities incidental to the application requested by the Exchange in relation to the listing, including briefings;
  - (ix) to give a return of total subscriptions after the issue; and
  - (x) to discharge its responsibilities with professional skill and due care.
- 5.3 If the Exchange finds that the sponsoring stockbroker is in breach of its responsibilities under these rules, the matter shall be referred to the Disciplinary Committee of the Exchange.
- 5.4 In case of breach of responsibility or professional misconduct of any nature by the sponsoring stockbroker or any other adviser to the issuer, the issuer shall immediately inform the Exchange and the Authority for appropriate action.

# ***PART III***

## **METHODS OF AND ELIGIBILITY AND DISCLOSURE REQUIREMENTS FOR, LISTING SECURITIES ON THE EXCHANGE**

This Part describes the different method by which securities may be admitted to listing at the Exchange as approved by the Authority. This Part states the eligibility and disclosure requirements for listing of securities applicable to the market segment.

### *6. Methods of listing securities on the Exchange*

- *New or initial public offering, introductions or offers for sale of issued Securities;*
- *Additional new listing of securities.*

### *7. Market Segments and eligibility requirements for listing of securities.*

### *8. Disclosure requirements for listing applicable to the Market Segments*

# 6

## METHODS OF LISTING SECURITIES ON THE EXCHANGE

### **6.1 New or initial public offering, Introductions or offers for sale of issued securities**

An issuer may seek the listing of securities arising from initial public offering of issued securities by any of the following methods:

- (a) An offer for sale of existing or issued securities;
- (b) Initial public offering; or
- (c) Introductions of securities already listed in a securities exchange outside Kenya;  
or
- (d) Any other method approved by the Authority.

### **6.2 Additional new listing of securities**

An issuer may seek the listing of additional securities of the same class as those already listed by any of the following methods:

- (a) a rights issue;
- (b) capitalisation issue (or bonus issue) in lieu of dividend or otherwise;
- (c) scrip dividend; or
- (d) any other method approved by the Authority.

# 7

## MARKET SEGMENTS AND ELIGIBILITY REQUIREMENTS FOR LISTING OF SECURITIES

7.1 The Official list is categorized into three different market segments approved by the Authority. The segments have different eligibility and disclosure requirements prescribed by the Authority under The Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002 and provided under Part V as appendices to these rules.

7.2 These market segments are:

- (i) Main Investment Market Segment (MIMS)
- (ii) Alternative Investment Market Segment (AIMS)
- (iii) Fixed Income Securities Market Segment (FISMS)

### **Main Investment Market Segment (MIMS)**

This means a market segment for which securities of issuers that satisfy the eligibility requirements prescribed under regulation 7(1)(a) of the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002 and set out in the First Schedule under Part V of these rules are listed.

### **Alternative Investment Market Segment (AIMS)**

This means a market segment for which securities of issuer that satisfy the eligibility requirements prescribed under regulation 7(1)(b) of the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002 and set out in the First Schedule under Part V of these rules are listed.

### **Fixed Income Securities Market Segment (FISMS)**

This means a market segment for which fixed income securities of issuers that satisfy the eligibility requirements prescribed under regulation 7(1)(c) of the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002 and set out in the Second Schedule of Part V of these rules, are listed, and include Government and corporate securities.

### **7.3 TRANSFER FROM ONE SEGMENT TO ANOTHER**

- 7.3.1 An issuer may seek to transfer from one segment to another on making a written application, after one year in the respective market segment, to the Exchange, stating the reasons for the request and the Exchange shall make appropriate recommendation to the Authority on the same.
- 7.3.2 Any approval of transfer from one market segment to another shall be subject to a shareholders resolution authorising such transfer.
- 7.3.3 Where an issuer seeks to transfer from one market segment to another, it shall meet the eligibility criteria and disclosure requirements for the segment to which it wishes to transfer to and shall be subject to the Authority's approval on the recommendation of the Exchange.

# 8

## **DISCLOSURE REQUIREMENTS FOR LISTING APPLICABLE TO THE MARKET SEGMENTS**

For an issuer to be listed on any market segment, the issuer shall comply with the eligibility criteria and disclosure requirements prescribed by the Authority and provided as appendices under Part V of these rules as follows:

### **First Schedule**

Eligibility criteria for public offering of shares and listing on the Main Investment Market Segment and the Alternative Investment Market Segment.

### **Second Schedule**

Eligibility criteria for public offering of debt securities and listing on the Fixed Income Securities Market Segment

### **Third Schedule**

#### **Part A**

Main Investment Market Segment disclosure requirements for public offerings

#### **Part B**

Alternative Investment Market Segment disclosure requirements for public offerings

#### **Part C**

Fixed Income Securities Market Segment disclosure requirements for public issues

### **Fourth Schedule**

Disclosure requirements for additional issues (Rights, scrip dividend and capitalization issues and open offers).

# ***PART IV***

## **CONTINUING LISTING OBLIGATIONS APPLICABLE TO ALL MARKET SEGMENTS**

This Part sets out issuers' continuous listing obligations including disclosures on periodical financial information and general disclosures to ensure that the investors and shareholders have access to information on the issuer.

*9. Scope of continuous listing obligations*

*10. General obligation of disclosure*

# 9

## **SCOPE OF CONTINUOUS LISTING OBLIGATIONS**

- 9.1 The issuers' continuing obligations are essential to the maintenance of an orderly market in securities and to ensure that all users of the market have simultaneous access to the same information.
- 9.2 Continuing obligations of issuers cover the following:
- i) General obligations of disclosure;
  - ii) Disclosure of periodic financial information; and
  - iii) Miscellaneous provisions.
- 9.3 Every issuer shall comply with the continuing listing obligations prescribed by the Authority as the Fifth Schedule under Part V of these rules.

# 10

## GENERAL OBLIGATION OF DISCLOSURE

10.1 An issuer shall, as soon as possible but not later than twenty four hours, release an announcement giving details of:

- (i) Circumstances or events that have or are likely to have a material effect on the financial results, the financial position or cash flow of the issuer and/or information necessary to enable holders of the issuer's listed securities and the public make informed decisions on the issuer's performance and operations; and
- (ii) New developments which impact on the issuer's operations, trading and financial performance or any information whatsoever considered by the issuer to be price sensitive or could lead to material movements in the prices of its listed securities.

### 10.2 **Cautionary announcements**

An issuer shall submit to the Exchange and the Authority information of any material price sensitive information, and publish a cautionary announcement as soon as possible after it is in possession of such information, if at any time the necessary degree of confidentiality of such information cannot be maintained, or if the issuer suspects that confidentiality has or may have been breached.

# ***PART V***

## **STATUTORY REQUIREMENTS**

### **PROVISIONS UNDER THE CAPITAL MARKETS (SECURITIES) (PUBLIC OFFERS, LISTING AND DISCLOSURES) REGULATIONS, 2002**

#### **First Schedule**

Eligibility criteria for public offering of shares and listing

#### **Second Schedule**

Eligibility criteria for public offering of debt securities and listing on the Fixed Income Securities Market Segment

#### **Third Schedule**

##### **Part A**

Main Investment Market Segment disclosure requirements for public offerings

##### **Part B**

Alternative Investment Market Segment disclosure requirements for public offerings

##### **Part C**

Fixed Income Securities Market Segment disclosure requirements for public issues

#### **Fourth Schedule**

Disclosure requirements for additional issues

(Rights, scrip dividend and capitalization issues and open offers.)

#### **Fifth Schedule**

Continuing Obligations



<p><b>Free transferability of shares</b></p>	<ul style="list-style-type: none"> <li>▪ Shares to be listed shall be freely transferable and not subject to any restrictions on marketability or any pre-emptive rights.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Shares to be listed shall be freely transferable and not subject to any restrictions on marketability or any pre-emptive rights.</li> </ul>
<p><b>Availability and reliability of financial records</b></p>	<ul style="list-style-type: none"> <li>▪ The issuer shall have published audited financial statements complying with IAS for an accounting period ending on a date not more than three months prior to the proposed date of the offer for issuers whose securities are not listed at the securities exchange and six months for issuers whose securities are listed at the securities exchange.</li> <li>▪ Where not more than nine months have elapsed since the end of the financial year for which the last published annual accounts relate, issuers whose securities are not listed at the securities exchange shall prepare an interim audited financial statement covering at least the first six months following the end of that financial year which must be included in or</li> </ul>	<ul style="list-style-type: none"> <li>▪ The issuer shall have published audited financial statements complying with IAS for an accounting period ending on a date not more than three months prior to the proposed date of the offer for issuers whose securities are not listed at the securities exchange and six months for issuers whose securities are listed at the securities exchange.</li> <li>▪ Where not more than nine months have elapsed since the end of the financial year to which the last published annual accounts relate, issuers whose securities are not listed at the securities exchange shall prepare an interim audited financial statement covering at least the first six months following the end of that financial year which must be included in or appended to the</li> </ul>

	<p>appended to the prospectus, or time the issue to coincide with the next audited annual accounts.</p> <ul style="list-style-type: none"> <li>▪ Where not more than nine months have elapsed since the end of the financial year, issuers whose securities are already listed at a securities exchange in Kenya shall prepare unaudited financial statements covering the period preceding the six months which must be included in or appended to the prospectus or time the issue to coincide with the next audited annual accounts.</li> <li>▪ The financial soundness of the issuer shall not be in any doubt and 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.</li> </ul>	<p>prospectus, or time the issue to coincide with the next audited annual accounts.</p> <ul style="list-style-type: none"> <li>▪ Where not more than nine months have elapsed since the end of the financial year, issuers whose securities are already listed at a securities exchange in Kenya shall prepare unaudited financial statements covering the period preceding the six months which must be included in or appended to the prospectus or time the issue to coincide with the next audited annual accounts.</li> <li>▪ The financial soundness of the issuer shall not be in any doubt and 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.</li> </ul>
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<p><b>Competence and suitability of directors and management</b></p>	<ul style="list-style-type: none"> <li>▪ 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.</li>   <li>▪ As at the date of the application and for a period of at least two years prior to the date of the application, no director of the issuer shall have - <ul style="list-style-type: none"> <li>- any petition under bankruptcy laws pending or threatened against the director (for individuals), or any winding-up petition pending or threatened against it (for corporate bodies);</li> <li>- any criminal proceedings in which the director was convicted of fraud or any criminal offence, nor be named the subject of pending criminal proceeding, or any other offence or action either within or outside Kenya; or</li> <li>- been the subject of any ruling of a court of competent jurisdiction or any governmental body, that permanently or temporarily prohibits such</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ 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.</li>   <li>▪ As at the date of the application and for a period of at least two years prior to the date of the application, no director of the issuer shall have - <ul style="list-style-type: none"> <li>- any petition under bankruptcy laws pending or threatened against the director (for individuals), or any winding-up petition pending or threatened against it (for corporate bodies);</li> <li>- any criminal proceedings in which the director was convicted of fraud or any criminal offence, nor be named the subject of pending criminal proceeding, or any other offence or action either within or outside Kenya; or</li> <li>- been the subject of any ruling of a court of competent jurisdiction or any governmental body, that permanently or temporarily prohibits such director from</li> </ul> </li> </ul>
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	<p>director from acting as an investment adviser or as a director or employee of a stockbroker, dealer, or any financial service institution or engaging in any type of business practice or activity.</p> <ul style="list-style-type: none"> <li>▪ The issuer must have suitable senior management with relevant experience for at least one year prior to the listing, none of whom shall have committed any serious offence that may be considered inappropriate for the management of a listed company.</li> <li>▪ The issuer shall ensure continued retention of suitably qualified management during listing and no change of management for a period of twelve months following the listing other than for reason of a serious offence that may be considered to affect the integrity or be inappropriate for management of a listed company.</li> <li>▪ The issuer must have at least a third of the Board as non-executive directors.</li> </ul>	<p>acting as an investment adviser or as a director or employee of a stockbroker, dealer, or any financial service institution or engaging in any type of business practice or activity.</p> <ul style="list-style-type: none"> <li>▪ The issuer must have suitable senior management with relevant experience for at least one year prior to the listing, none of whom shall have committed any serious offence that may be considered inappropriate for the management of a listed company.</li> <li>▪ The issuer shall ensure continued retention of qualified management during listing and no change of management for a period of twelve months following the listing other than for reason of a serious offence that may be considered to affect the integrity or be inappropriate for management of a listed company.</li> <li>▪ The issuer must have at least a third of the Board as non-executive directors.</li> </ul>
<b>Track record, profitability and future prospects</b>	The issuer must have declared positive profits after tax attributable to shareholders in at least	The issuer must have been in existence in the same line of business for a minimum of two years one of which

	three of the last five completed accounting periods to the date of the offer.	should reflect a profit with good growth potential.
<b>Dividend policy</b>	The issuer must have a clear future dividend policy.	The issuer must have a clear future dividend policy.
<b>Solvency and adequacy of working capital</b>  <b>Share ownership structure</b>	<ul style="list-style-type: none"> <li>▪ The issuer should not be insolvent.</li> <li>▪ The issuer should have adequate working capital.</li> <li>▪ Following the public share offering at least 25% of the shares must be held by not less than 1000 shareholders excluding employees of the issuer save for companies listed in this market segment whose shares do not at the time these Regulations come into effect, meet the required minimum to be held by the public, such issuers shall have a transition period of three years within which to attain the required minimum of 25% of the issued shares to be held by the public ensuring a minimum of 20% of the issued share capital to be held by the public during the transition period.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The issuer should not be insolvent.</li> <li>▪ The issuer should have adequate working capital.</li> <li>▪ Following the public share offering at least 20% of the shares must be held by not less than 100 shareholders excluding employees of the issuer or family members of the controlling shareholders.</li> <li>▪ No investor shall hold more than 3% of the 20% shareholding.</li> <li>▪ 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 prospectus.</li> </ul>
<b>Certificate of comfort</b>	If the issuer is listed in a securities exchange outside Kenya or is licensed to operate as a bank or an insurance company the issuer must obtain a certificate of no objection from the relevant regulator.	If the issuer is listed in a securities exchange outside Kenya or is licensed to operate as a bank or an insurance company the issuer must obtain a certificate of no objection from the relevant regulator.

**SECOND SCHEDULE**

**(r.7(1)(c))**

**ELIGIBILITY REQUIREMENTS FOR PUBLIC OFFERING OF  
FIXED INCOME SECURITIES AND LISTING ON THE FIXED  
INCOME SECURITIES MARKET SEGMENT**

REQUIREMENT	CRITERIA
<b>Incorporation with limited liability</b>	<ul style="list-style-type: none"> <li>▪ The issuer to be listed shall be a public company registered under the Companies Act (Cap 486) or any other body corporate established or incorporated in Kenya under the provision of any written law.</li> <li>▪ Issuers of commercial paper may be private companies.</li> </ul>
<b>Size: Share Capital and Net Assets of Issuer</b>	<p>The issuer shall have a minimum authorized, issued and fully paid up share capital of Kshs. 50 million and net assets of Kshs. 100 million before the public offering of the securities.</p>
<b>Listing and transferability of securities</b>	<ul style="list-style-type: none"> <li>▪ All fixed income securities except for commercial papers shall be listed and shall be freely transferable and not subject to any restrictions on marketability or pre-emptive rights.</li> <li>▪ Commercial papers are not transferable or to be listed at a securities exchange.</li> </ul>
<b>Availability and reliability of financial records</b>	<ul style="list-style-type: none"> <li>▪ The issuer other than the Government of Kenya issuing Treasury Bonds or other Government securities, must have published audited financial statements complying with IAS for an accounting period ending on a date not more than three months prior to the proposed date of the offer.</li> <li>▪ Where not more than nine months have elapsed since the end of the financial year to which the last published annual accounts relate, the issuer shall prepare an interim audited financial statement covering at least the first six months following the end of that financial year which must be included in or appended to the prospectus.</li> <li>▪ 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</li> </ul>

<p><b>Directors and senior management</b></p>	<p>appended to the prospectus.</p> <ul style="list-style-type: none"> <li>▪ The financial soundness of the issuer shall not be in any doubt and 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.</li> <li>▪ 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.</li> <li>▪ As at the date of the application and for a period of at least two years prior to the date of the application, no director of the issuer shall have - <ul style="list-style-type: none"> <li>- any petition under bankruptcy laws pending or threatened against the director (for individuals), or any winding-up petition pending or threatened against it (for corporate bodies);</li> <li>- any criminal proceedings in which the director was convicted of fraud or any criminal offence, or be named subject of pending criminal proceeding, or any other offence or action either within or outside Kenya; or</li> <li>- been the subject of any ruling of a court of competent jurisdiction or any governmental body, that permanently or temporarily prohibits such director from acting as an investment adviser or as a director or employee of a stockbroker, dealer or any financial institution or engaging in any type or business practice or activity.</li> </ul> </li> <li>▪ The issuer must have suitable senior management with relevant experience for at least one year prior to the listing, none of whom shall have committed any serious offence that may be considered inappropriate for the management of a listed company.</li> <li>▪ At least one third of the issuer's board of directors shall be non-executive directors.</li> </ul>
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<b>Minimum Size for Listing</b>	For an issuer to maintain listing of its fixed income security, the minimum size of the fixed income security listed shall be Kshs. 50,000,000, except in the case of redemption.
<b>Renewal date</b>	Every issuer of commercial paper shall apply for a renewal at least three months before the expiry of the approved period of twelve months from the date of approval.

## THIRD SCHEDULE

### PART A

(r.10(a))

#### MAIN INVESTMENT MARKET SEGMENT DISCLOSURE REQUIREMENTS FOR PUBLIC OFFERINGS

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**ID.A.00 Identity of directors, senior management and advisers (i.e. persons responsible for the information disclosed)**

A.01 The name, home or business address and function of each of the persons giving the declaration set out in paragraph A.02

A.02 A declaration in the following form:

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.

A.03 The names, addresses and qualifications of the auditors who have audited the issuer's annual accounts in accordance with IAS for the last three financial years.

A.04 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.

A.05 The names and addresses 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.

**ID.B.00 Offer statistics and expected timetable**

B.01 (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.

(2) Cautionary statement of the Authority.

B.02 A statement that a copy of the prospectus has been delivered to the Registrar.

B.03 If the offer is by more than one method, for each method of offering, state the total amount of the issue, including the expected issue price or the method of determining the price and the number of securities expected to be issued.

- B.04 For each public offering, and separately for each group of targeted potential investors, state the following information to the extent applicable:
- (a) 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;
  - (b) method and time limits for paying up securities;
  - (c) method and time limits for delivery of securities (including provisional certificates, if applicable) to subscribers or purchasers;
  - (d) 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
  - (e) 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).

**ID.C.00 Information on the issuer**

- C.01 The name, registered office and, if different, head office of the issuer. If the issuer has changed its name within the last five years, the old name must be printed in bold type under the new name.
- C.02 The country of incorporation of the issuer.
- C.03 The date of incorporation and the length of life of the issuer, except where indefinite.
- C.04 The legislation under which the issuer operates and the legal form which it has adopted under that legislation.
- C.05 A description of the issuer's principal objects and reference to the clause(s) of the memorandum of association in which they are described.
- C.06 The place and date of registration of the issuer and its registration number.

C.07 A statement that for a period of **not less than five working days** from the date of the prospectus or for the duration of any offer to which the prospectus relates, if longer, at a named place as the Authority may agree, the following documents (or copies thereof), where applicable, could be inspected:

- (a) the memorandum and articles of association of the issuer;
- (b) any trust deed of the issuer or of its subsidiary companies which is referred to in the prospectus;
- (c) each document mentioned in paragraphs C.18 (material contracts) and E.11 (directors' service contracts) or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof;
- (a) copies of service agreements with managers or secretary/ies; underwriting, vendors' and promoters' agreements entered into during the last two financial years;
- (b) in the case of an issue of shares in connection with a merger, the division of a company, the transfer of all or part of an undertaking's assets and liabilities, or a takeover offer, or as consideration for the transfer of assets other than cash, the documents describing the terms and conditions of such operations, together, where appropriate, with any opening balance sheet, if the issuer has not prepared its own or consolidated annual accounts (as appropriate);
- (c) the latest competent person's report, in the case of a mineral company-
- (d) the latest certified appraisals or valuations relative to movable and immovable property and items of a similar nature, if applicable;
- (e) all reports, letters, and other documents, balance sheets, valuations and statements by any expert any part of which is included or referred to in the prospectus;
- (f) written statements signed by the auditors or accountants setting out the adjustments made by them in arriving at the figures shown in any accountants' report pursuant to paragraph G.04 and giving the reasons therefor; and
- (g) 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 prospectus, including, in the case of a company incorporated in Kenya, all notes, reports or information required by the Companies Act.

- C.08 Where any of the documents listed in paragraph C.07 are not in the English language, translations into English must also be available for inspection. In the case of any document mentioned in paragraph C.18 (material contracts), a translation of a summary of such document may be made available for inspection, if the Authority so requires.
- C.09 The amount of the issuer's authorised 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, 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.
- C.10 Where the issuer has authorised but un-issued capital or is committed to increase the capital, an indication of:
- (a) the amount of such authorised capital or capital increase and, where appropriate, the duration of the authorisation;
  - (b) the categories of persons having preferential subscription rights for such additional portions of capital; and
  - (c) the terms and arrangements for the share issue corresponding to such portions.
- C.11 If the issuer has shares not representing capital:
- (a) the number and main characteristics of such shares;
  - (b) the amount of any outstanding convertible debt securities, exchangeable debt securities or debt securities with warrants; and
  - (c) a summary of the conditions governing and the procedures for conversion, exchange or subscription of such securities.
- C.12 A summary of the provisions of the issuer's memorandum and articles of association regarding changes in the capital and in the respective rights of the various classes of securities.
- C.13 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 and/or the number and classes of securities of which it is composed. Intra group issues by partly owned subsidiaries and changes in the capital structure of subsidiaries which have remained wholly owned throughout the period may be disregarded. Such summary must also state the price and terms granted and (if not already fully paid) the dates when any instalments are in arrears. If any asset has been acquired or is to be acquired out of the proceeds of the issue, its value must be stated. If there are no such issues, an appropriate negative statement must be made.

- C.14 The names of the persons, so far as they are known to the issuer, 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.
- C.15 Details of any change in controlling shareholder(s) as a result of the issue.
- C.16 The history of any change in the controlling shareholder(s) and trading objectives of the issuer and its subsidiaries during the previous two financial years. A statement of the new trading objectives 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. The proposed new name, if any, the reasons for the change and whether or not consent to the change has been obtained from the Registrar.
- C.17 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.
- C.18 A summary of the principal contents of :
- (a) 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, 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 C.07; and
  - (b) 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.
- C.19 If any contract referred to in paragraph C.18 relates to the acquisition of securities in an unlisted subsidiary, or associate company, where all securities in the company have not been acquired, state the reason why 100% of the shareholding was not acquired, and whether anyone associated with the controlling shareholder(s) of the issuer, or associate companies, or its subsidiaries is interested and to what extent.

- C.20 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.
- C.21 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.
- C.22 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 -
- (a) a statement of the aggregate value of the consideration for the transaction and how it was or is to be satisfied;
  - (b) 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
  - (c) 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.
- C.23 A description of the group's principal activities, stating the main categories of products sold and/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.
- C.24 For the business(es) described in paragraph C.23 above, the degree of any government protection and of any investment encouragement law affecting the business(es).

- C.25 Information on any significant new products and/or activities.
- C.26 A breakdown of net turnover during the last five financial years by categories of activity and into geographical markets in so far as such categories and markets differ substantially from one another, taking account of the manner in which the sale of products and the provision of services falling within the group's ordinary activities are organised.
- C.27 The location, size and tenure of the group's principal establishments and summary information about land or buildings owned or leased. Any establishment which accounts for more than 10% of net turnover or production shall be considered a principal establishment.
- C.28 Details of any material changes in the businesses of the issuer during the past five years.
- C.29 Where the information given pursuant to paragraphs C.23 to C.28 has been influenced by exceptional factors, that fact must be mentioned.
- C.30 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.
- C.31 Particulars of royalties payable or items of a similar nature in respect of the issuer and any of its subsidiaries.
- C.32 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.
- C.33 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.
- C.34 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.
- C.35 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 -
- (a) the geographical distribution of these investments; and
  - (b) the method of financing such investments.
- C.36 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.

C.37 Information concerning policy on the research and development of new products and processes over the past three financial years, where significant.

C.38 The basis for any statements made by the issuer regarding its competitive position shall be disclosed.

**ID.D.00 Operating and financial review and prospectus (the recent development and prospects of the group)**

D.01 Unless otherwise approved by the Authority in exceptional circumstances:

- (a) 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;
  - (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; and
- (b) 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.

D.02 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".

D.03 Describe the:

- a) 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.
- b) 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;
- c) 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

- d) 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.

D.04 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.

D.05 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.

#### **ID.E.00 Directors and employees**

E.01 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:

- (a) directors, alternate and proposed directors of the issuer and each of its subsidiaries including details of other directorships;
- (b) 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
- (c) 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.
- (d) 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.

E.02 A description of other relevant business interests and activities of every such person as is mentioned in paragraph E.01 and, if required by the Authority particulars of any former forename or surname of such persons.

E.03 In the case of a foreign issuer, information similar to that described in E.01 and E.02 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.

- E.04 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.
- E.05 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.
- E.06 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 -
- (a) the current or immediately preceding financial year; or
  - (b) an earlier financial year and remain in any respect outstanding or unperformed;
- or an appropriate negative statement.
- E.07 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.
- E.08 Details of any schemes for involving the staff in the capital of any member of the group.
- E.09 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.
- E.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 prospectus.
- E.11 Details of existing or proposed directors' service contracts (excluding contracts previously made available for inspection in accordance with paragraph C.07 and not subsequently varied); such details to include the matters specified in paragraphs (a) to (g) below or an appropriate negative statement:

- (a) the name of the employing company;
- (b) the date of the contract, the unexpired term and details of any notice periods;
- (c) full particulars of the director's remuneration including salary and other benefits;
- (d) any commission or profit sharing arrangements;
- (e) any provision for compensation payable upon early termination of the contract;
- (f) 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
- (g) 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.

E.12 A summary of the provisions of the memorandum and articles of association of the issuer with regards to -

- (a) any power enabling a director to vote on a proposal, arrangement, or contract in which he is materially interested;
- (b) 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; and
- (c) retirement or non-retirement of directors under an age limit.

E.13 Any arrangement or understanding with major shareholders, customers, suppliers or others, pursuant to which any person referred to in E.01 above, was selected as a director or member of senior management.

E.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.

E.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.

**ID.F.00 Major shareholders and related party transactions**

F.01 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:

- a) 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;
- b) disclose any significant change in the percentage ownership held by any major shareholders during the past three years; and
- c) indicate whether the issuer's major shareholders have different voting rights, or an appropriate negative statement.

F.02 Information shall be provided as to the portion of each class of securities held in Kenya and the number of shareholders in Kenya.

F.03 To the extent known to the issuer, state whether the issuer is directly or indirectly owned or controlled by any other corporation(s), foreign government or any other natural or legal person(s) severally or jointly, and, if so, give the name(s) of such controlling corporation(s), government or other person(s), and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote.

F.04 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.

F.05 In so far as is known to the issuer, the name of any person other than a director who, directly or indirectly, is interested in 10 % or more of the issuer's capital, together with the amount of each such person's interest.

F.06 Provide the information required on (a) and (b) 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:

- (a) enterprises that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the issuer;
- (b) associates;
- (c) 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;
- (d) 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

(e) enterprises in which a substantial interest in the voting power is owned, directly or indirectly, by any person described in (c) or (d) or over which such a person is able to exercise significant influence. This includes 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:

- (i) 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(ies) was a party; and
- (ii) 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.

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.

F.07 Full information of any material inter-company finance.

F.08 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.

F.09 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.

#### **ID.G.00 Financial information**

G.01 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.

G.02 A statement of what other information in the prospectus has been audited by the auditors.

- G.03 Financial information as required by paragraphs G.14 and G.15 set out in the form of a comparative table together with any subsequent interim financial statements if available.
- G.04 Financial information as required by paragraphs G.14 and G.15 set out in the form of an accountants' report.
- G.05 If applicable, an accountants' report, as set out in paragraphs G.14 and G.15 on the asset which is the subject of the transaction.
- G.06
- (1) If the issuer prepares consolidated annual accounts only, it must include those accounts in the prospectus in accordance with paragraph G.03 or G.04.
  - (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 G.03 or G.04. 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 C. 07.
- G.07
- (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.
  - (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 (1) above where the issuer also includes its own annual accounts in the prospectus.
- G.08 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 G.07 must be adjusted to make them comparable; in that event the basis of adjustment used must be disclosed.
- G.09 Particulars of the -
- (a) dividend policy to be adopted;
  - (b) pro-forma balance sheet prior to and immediately after the proposed issue of securities; and
  - (c) effect of the proposed issue of securities on the net asset value per share.

The above particulars must be prepared and presented in accordance with IAS. If the issuer is a holding company, the information must be prepared in consolidated form.

- G.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 G.08.
- G.11 (1) Where not more than nine months have elapsed since the end of the financial year to which the last published annual 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.
- (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.
- G.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.
- G.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 and/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.
- G.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.
- G.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 -
- (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.
- (2) The items of information listed in (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.
- (3) The information required by (1)(e) and (f) above may be omitted where the undertaking in which a participating interest is held does not publish annual accounts.
- (4) The information required by (1)(d) to (j) 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 1(i) and (j) 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.

G.16 The name, registered office and proportion of capital held in respect of each undertaking not failing to be disclosed under paragraph G.15(1) or (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.

G.17 When the prospectus includes consolidated annual accounts, disclosure:

- (a) of the consolidation principles applied (which must be described explicitly where such principles are not consistent with IAS);
- (b) 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 G.15; and
- (c) for each of the undertakings referred to in (b) above -
  - (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.

G.18 Particulars of any arrangement under which future dividends are waived or agreed to be waived.

G.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:

- (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 (c) to (f) above arose, stating whether they arose from the purchase of assets by the issuer or any of its subsidiaries.

(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 (1) above; 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.

(3) For each item identified in (1) above, where applicable -

- (a) the names of the lenders if not debenture holders;
  - (b) the amount, terms and conditions of repayment or renewal;
  - (c) the rates of interest payable on each item;
  - (d) details of the security, if any;
  - (e) details of conversion rights; and
  - (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.
- (4) If the issuer prepares consolidated annual accounts, the principles laid down in paragraph G.06 apply to the information set out in this paragraph G.19.
- G.20 Details of material loans by the issuer or by any of its subsidiaries stating -
- (a) the date of the loan;
  - (b) to whom made;
  - (c) the rate of interest;
  - (d) if the interest is in arrears, the last date on which it was paid and the extent of the arrears;
  - (e) the period of the loan;
  - (f) the security held;
  - (g) the value of such security and the method of valuation;
  - (h) if the loan is unsecured, the reasons therefor; and
  - (i) if the loan was made to another company, the names and addresses of the directors of such company.
- G.21 Details as described in paragraph G.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.
- G.22 Disclose how the loans receivable arose, stating whether they arose from the sale of assets by the issuer or any of its subsidiaries.
- G.23 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, 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.
- G.24 The foreseeable future should normally be construed as the nine months subsequent to the date of the publication of the prospectus.
- G.25 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 -

- (a) the date of any such acquisition or proposed acquisitions;
- (b) 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;
- (c) details of the valuation of the property;
- (d) any goodwill paid and how such goodwill was or is to be accounted for;
- (e) any loans incurred, or to be incurred, to finance the acquisition, or proposed acquisition;
- (f) the nature of title or interest acquired or to be acquired;
- (g) details regarding the vendors as described in paragraph I.01; and

G.26 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 -

- (a) the dates of any such disposal or proposed disposal;
- (b) 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;
- (c) details of the valuation of the property; and
- (d) 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.

G.27 Where the financial statements provided under paragraphs G.01 to G.05 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 -

- (a) at the latest practicable date;
- (b) the high and low exchange rates for each month during the preceding twelve months; and
- (c) 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.

**ID.H.00 The offer and listing**

- H.01 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.
- H.02 A statement of the resolutions, authorisations and approvals by virtue of which the shares have been or will be created and/or issued.
- H.03 The nature and amount of the issue.
- H.04 The number of shares which have been or will be created and/or issued, if predetermined.
- H.05 (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, like details must be given for each class.
- (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.
- H.06 The time limit (if any) after which entitlement to dividend lapses and an indication of the person in whose favour the lapse operates.
- H.07 A statement regarding tax on the income from the shares withheld at source -
- (a) in the country of origin; and
- (b) in Kenya.
- H.08 Arrangements for transfer of the shares and (where permitted) any restrictions on their free transferability (for example, provisions requiring transfers to be approved).
- H.09 The fixed date(s) (if any) on which entitlement to dividends arises.
- H.10 Other securities exchanges (if any) where admission to listing is being or will be sought.
- H.11 The names and addresses of the issuer's registrar and paying agent(s) for the shares in any other country where admission to listing has taken place.

- H.12 The following information must be given concerning the terms and conditions of the issue of the securities whether through a public or private placing with respect to the listing at a securities exchange where such issue or placing is being effected at the same time as the listing or has been effected within the three months preceding admission:
- (a) 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);
  - (b) the total amounts which have been or are being issued or placed and the number of shares offered, where applicable by category;
  - (c) if a public or private 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 -
    - (i) 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;
    - (ii) the issue premium and the amount of any expenses specifically charged to any subscriber or purchaser; and
    - (iii) the methods of payment of the price, particularly as regards the paying-up of shares which are not fully paid;
  - (d) the procedure for the exercise of any right of pre-emption, transferability of subscription rights and treatment of subscription rights not exercised;
  - (e) 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;
  - (f) the names, addresses and descriptions of the persons underwriting or guaranteeing the issue and where the underwriter is a company, the description must include-
    - (i) the place and date of incorporation and registered number of the company;
    - (ii) the names of the directors of the company;
    - (iii) the name of the secretary of the company;
    - (iv) the bankers to the company; and
    - (v) the authorised and issued share capital of the company.
  - (g) where not all of the issue has been or is being underwritten or guaranteed, a statement of the portion not covered;

- (h) a statement or estimate of the overall amount and/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
- (i) 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 H.13 below, the reasons for the difference between the capital offered and the said minimum subscription.

H.13 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:

- (a) the purchase price of any property, as referred to in paragraph G.25, purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;
- (b) 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;
- (c) the repayment of any monies borrowed in respect of any of the foregoing matters;
- (d) working capital, stating the specific purposes for which it is to be used and the estimated amount required for each of such purposes;
- (e) any other material expenditure, stating the nature and purpose thereof and the estimated amount in each case;
- (f) 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
- (g) 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.

H.14 A description of the shares for which 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.

- H.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.
- H.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 dealings will commence.
- H.17 The names of the securities exchanges (if any) on which shares of the same class are already listed.
- H.18 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.
- H.19 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 (a) to (c) 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 -
- (a) for the five most recent full financial years, the annual high and low market prices;
  - (b) for the two most recent full financial years and any subsequent period, the high and low market prices for each full financial quarter; and
  - (c) for the most recent six months, the high and low market prices for each month.
- H.20 A statement whether the issuer assumes responsibility for the withholding of tax at source.
- H.21 To the extent known to the issuer, indicate whether major share-holders, 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 than 5% of the offering.
- H.22 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.
- H.23 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.

- H.24 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 15% of the securities offered in the prospectus in case of over subscription of securities.
- H.25 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(s) or dealer(s) that will participate in the offering stating the amount to be offered through each.
- H.26 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(s) outside Kenya) describe briefly such transactions.
- H.27 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 public contribution in the proposed public offering and the effective cash contributions of such persons.
- H.28 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.
- H.29 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.
- H.30 The following information on expenses shall be provided:
- (a) 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;
  - (b) 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 -
    - (i) advertisement;
    - (ii) printing of prospectus;
    - (iii) approval and listing fees;
    - (iv) brokerage commissions;
    - (v) financial advisory fees;
    - (vi) legal fees; and

(vii) underwriting fees.

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

- (c) 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.

H.31 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.

**ID.I.00 Vendors**

- I.01 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, 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.
- I.02 State whether or not the vendors have given any indemnities, guarantees or warranties.
- I.03 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.
- I.04 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.
- I.05 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.

- I.06 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.
- I.07 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.
- 1.08 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.

ALTERNATIVE INVESTMENT MARKET SEGMENT  
DISCLOSURE REQUIREMENTS FOR PUBLIC  
OFFERINGS

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**ID.A.00** Identity of directors, senior management and advisers (ie persons responsible for the information disclosed)

A.01 The name, home or business address and function of each of the persons giving the declaration set out in paragraph A.02

A.02 A declaration in the following form:

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.

A.03 The names, addresses and qualifications of the auditors who have audited the issuer's annual accounts in accordance with IAS for the last two financial years.

A.04 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.

A.05 The names and addresses 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.

**ID.B.00** Offer statistics and expected timetable

B.01 (1) A statement that the Authority has approved the public offering and listing of the shares on the Alternative Investment Market Segment of a securities exchange.

(2) Cautionary statement of the Authority.

B.02 A statement that a copy of the prospectus has been delivered to the Registrar.

B.03 If the offer is by more than one method, for each method of offering state the total amount of the issue, including the expected issue price or the method of determining the price and

the number of securities expected to be issued.

- B.04 For each public offering, and separately for each group of targeted potential investors, state the following information to the extent applicable:
- a) 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;
  - b) method and time limits for paying up securities;
  - c) method and time limits for delivery of securities (including provisional certificates, if applicable) to subscribers or purchasers;
  - d) 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
  - e) 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).

**ID.C.00 Information on the issuer**

- C.01 The name, registered office and, if different, head office of the issuer. If the issuer has changed its name within the last two years, the old name must be printed in bold type under the new name.
- C.02 The country of incorporation of the issuer.
- C.03 The date of incorporation and the length of life of the issuer, except where indefinite.
- C.04 The legislation under which the issuer operates and the legal form which it has adopted under that legislation.
- C.05 A description of the issuer's principal objects and reference to the clause(s) of the memorandum of association in which they are described.
- C.06 The place and date of registration of the issuer and its

registration number.

C.07

A statement that for a period of **not less than five working days** from the date of the prospectus or for the duration of any offer to which the prospectus relates, if longer, at a named place as the Authority may agree, the following documents (or copies thereof), where applicable, could be inspected:

- (a) the memorandum and articles of association of the issuer;
- (b) any trust deed of the issuer or of its subsidiary companies which is referred to in the prospectus;
- (c) each document mentioned in paragraphs C.18 (material contracts) and E.10 (directors' service contracts) or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof;
- (d) copies of service agreements with managers or secretary/ries, underwriting, vendors' and promoters' agreements entered into during the last two financial years;
- (e) in the case of an issue of shares in connection with a merger, the division of a company, the transfer of all or part of an undertaking's assets and liabilities, or a takeover offer, or as consideration for the transfer of assets other than cash, the documents describing the terms and conditions of such operations, together, where appropriate, with any opening balance sheet, if the issuer has not prepared its own or consolidated annual accounts (as appropriate);
- (f) the latest competent person's report, in the case of a mineral company;
- (g) the latest certified appraisals or valuations relative to movable and immovable property and items of a similar nature, if applicable;
- (h) all reports, letters, and other documents, balance sheets, valuations and statements by any expert any part of which is included or referred to in the prospectus;
- (i) written statements signed by the auditors or accountants setting out the adjustments made by them in arriving at the figures shown in any accountants' report pursuant to paragraph G.04 and giving the reasons therefor; and
- (j) 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 (three years, if the issuer has been in existence for such a period) preceding the publication of the prospectus,

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including, in the case of a company incorporated in Kenya, all notes, reports or information required by the Companies Act.

- C.08 Where any of the documents listed in paragraph C.07 are not in the English language, translations into English must also be available for inspection. In the case of any document mentioned in paragraph C.18 (material contracts), a translation of a summary of such document may be made available for inspection, if the Authority so requires.
- C.09 The amount of the issuer's authorised 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, 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.
- C.10 Where the issuer has authorised but un issued capital or is committed to increase the capital, an indication of-
- (a) the amount of such authorised capital or capital increase and, where appropriate, the duration of the authorisation;
  - (b) the categories of persons having preferential subscription rights for such additional portions of capital; and
  - (c) the terms and arrangements for the share issue corresponding to such portions.
- C.11 If the issuer has shares not representing capital:
- (a) the number and main characteristics of such shares;
  - (b) the amount of any outstanding convertible debt securities, exchangeable debt securities or debt securities with warrants; and
  - (c) a summary of the conditions governing and the procedures for conversion, exchange or subscription of such securities.
- C.12 A summary of the provisions of the issuer's memorandum and articles of association regarding changes in the capital and in the respective rights of the various classes of securities.

- C.13 A summary of the changes during the two preceding financial years in the amount of the issued capital of the issuer and, if material, the capital of any member of the group and/or the number and classes of securities of which it is composed. Intra group issues by partly owned subsidiaries and changes in the capital structure of subsidiaries which have remained wholly owned throughout the period may be disregarded. Such summary must also state the price and terms granted and (if not already fully paid) the dates when any instalments are in arrears. If any asset has been acquired or is to be acquired out of the proceeds of the issue, its value must be stated. If there are no such issues, an appropriate negative statement must be made.
- C.14 The names of the persons, so far as they are known to the issuer, 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.
- C.15 Details of any change in controlling shareholder(s) as a result of the issue.
- C.16 The history of any change in the controlling shareholder(s) and trading objectives of the issuer and its subsidiaries during the previous two financial years. A statement of the new trading objectives and the manner in which the new objectives 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. The proposed new name, if any, the reasons for the change and whether or not consent to the change has been obtained from the Registrar.
- C.17 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.
- C.18 A summary of the principal contents of :
- (a) 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, 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 C.07; and

- (b) 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.

- C.19 If any contract referred to in paragraph C.18 relates to the acquisition of securities in an unlisted subsidiary, or associate company where all securities in the company have not been acquired, state the reason why 100% of the shareholding was not acquired, and whether anyone associated with the controlling shareholder(s) of the issuer, or associate companies, or its subsidiaries is interested and to what extent.
- C.20 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 two 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.
- C.21 A statement of all sums paid or agreed to be paid within the two 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.
- C.22 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 -
  - (a) a statement of the aggregate value of the consideration for the transaction and how it was or is to be satisfied;

- (b) 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
- (c) 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.

- C.23 A description of the group's principal activities, stating the main categories of products sold and/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.
- C.24 For the business(es) described in paragraph C.23 above, the degree of any government protection and of any investment encouragement law affecting the business(es).
- C.25 Information on any significant new products and/or activities.
- C.26 A breakdown of net turnover during the last two financial years (three where available) by categories of activity and into geographical markets in so far as such categories and markets differ substantially from one another, taking account of the manner in which the sale of products and the provision of services falling within the group's ordinary activities are organised.
- C.27 Particulars of royalties payable or items of a similar nature in respect of the issuer and any of its subsidiaries.
- C.28 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.
- C.29 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.

- C.30 A description, with figures, of the main investments made, including interests such as shares, debt securities etc., in other undertakings over the last two financial years and during the current financial year.
- C.31 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 -
- (a) the geographical distribution of these investments; and
  - (b) the method of financing such investments.
- C.32 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 issuers directors have already made firm commitments.
- C.33 Information concerning policy on the research and development of new products and processes over the past two financial years, where significant.
- C.34 The basis for any statements made by the company regarding its competitive position shall be disclosed.
- ID.D.00** **Operating and financial review and prospectus (the recent development and prospects of the group)**
- D.01 Unless otherwise approved by the Authority in exceptional circumstances:
- (a) 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 -
    - (i) the most significant recent trends in production, sales and stocks and the state of the order book; and
    - (ii) recent trends in costs and selling prices; and
  - (b) 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.

- D.02 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".
- D.03 Describe the:
- a) 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;
  - b) 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;
  - c) 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
  - d) 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.
- D.04 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.
- D.05 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.
- ID.E.00 Directors and employees**
- E.01 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:

- (a) directors, alternate and proposed directors of the issuer and each of its subsidiaries, including details of other directorships;
- (b) 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
- (c) 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
- (d) 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.

E.02 A description of other relevant business interests and activities of every such person as is mentioned in paragraph E.01 and, if required by the Authority particulars of any former forename or surname of such persons.

E.03 In the case of a foreign issuer, information similar to that described in E.01 and E.02 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.

E.04 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.

E.05 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.

E.06 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 -

- (a) the current or immediately preceding financial year; or

(b) an earlier financial year and remain in any respect outstanding or unperformed;

or an appropriate negative statement.

- E.07 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.
- E.08 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 prospectus.
- E.09 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 prospectus.
- E.10 Details of existing or proposed directors' service contracts (excluding contracts previously made available for inspection in accordance with paragraph C.07 and not subsequently varied); such details to include the matters specified in paragraphs (a) to (g) below or an appropriate negative statement:
- (a) the name of the employing company;
  - (b) the date of the contract, the un-expired term and details of any notice periods;
  - (c) full particulars of the director's remuneration including salary and other benefits;
  - (d) any commission or profit sharing arrangements;
  - (e) any provision for compensation payable upon early termination of the contract;
  - (f) 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
  - (g) 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.

- E.11 A summary of the provisions of the memorandum and articles of association of the issuer with regards to:
- (a) any power enabling a director to vote on a proposal, arrangement, or contract in which he is materially interested;
  - (b) 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; and
  - (c) retirement or non-retirement of directors under an age limit.
- E.12 Any arrangement or understanding with major shareholders, customers, suppliers or others, pursuant to which any person, referred to in E.01 above, was selected as a director or member of senior management.
- E.13 Details relating to the issuer's audit, remuneration and nomination committees including the names of committee members and a summary of the terms of reference under which the committees operate.

**ID.F.00 Major shareholders and related party transactions**

- F.01 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:
- a) 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 at the most recent practicable date, or an appropriate negative statement if there are no major shareholders;
  - b) disclose any significant change in the percentage ownership held by any major shareholders during the past three financial years; and
  - c) indicate whether the issuer's major shareholders have different voting rights, or an appropriate negative statement.
- F.02 Information shall be provided as to the portion of each class of securities held in Kenya and the number of shareholders in Kenya.
- F.03 To the extent known to the issuer, state whether the issuer is directly or indirectly owned or controlled by any other corporation(s), foreign government or other natural or legal person(s) severally or jointly, and, if so, give the name(s) of such controlling corporation(s), government or other person(s),

and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote.

- F.04 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.
- F.05 In so far as is known to the issuer, the name of any person other than a director who, directly or indirectly, is interested in 10 % or more of the issuer's capital, together with the amount of each such person's interest.
- F.06 Provide information required on (a) and (b) below for the period since the beginning of the issuer's preceding two financial years (three where available) up to the date of the prospectus, with respect to transactions or loans between the issuer and:
- (a) enterprises that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the issuer;
  - (b) associates;
  - (c) 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;
  - (d) 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
  - (e) enterprises in which a substantial interest in the voting power is owned, directly or indirectly, by any person described in (c) or (d) or over which such a person is able to exercise significant influence. This includes 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-
    - (i) 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(ies)

was a party; and

- (ii) 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.

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.

- F.07 Full information of any material inter-company finance.
- F.08 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 prospectus, and has not withdrawn his consent.
- F.09 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.

**ID.G.00 Financial information**

- G.01 A statement that the annual accounts of the issuer for the last two financial years (three where available) have been audited. If audited 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 reasons given.
- G.02 A statement of what other information in the prospectus has been audited by the auditors.
- G.03 Financial information as required by paragraphs G.14 and G.15 set out in the form of a comparative table together with any subsequent interim financial statements if available.
- G.04 Financial information as required by paragraphs G.14 and G.15 set out in the form of an accountants' report.
- G.05 If applicable, an accountant's report, as set out in paragraphs G.14 and G.15 on the asset which is the subject of the transaction.
- G.06 (1) If the issuer prepares consolidated annual accounts only, it must include those accounts in the prospectus in accordance with paragraph G.03 or G.04.

(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 G.03 or G.04. 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 C. 07.

G.07 (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 two financial years.

(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 two financial years; this information must appear in addition to that provided in accordance with (1) above where the issuer also includes its own annual accounts in the prospectus.

G.08 If, in the course of the last two 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 G.07 must be adjusted to make them comparable; in that event the basis of adjustment used must be disclosed.

G.09 Particulars of -

- (a) the dividend policy to be adopted;
- (b) the pro-forma balance sheet prior to and immediately after the proposed issue of securities; and
- (c) the effect of the proposed issue of securities on the net asset value per share.

The above particulars must be prepared and presented in accordance with IAS. If the issuer is a holding company, the information must be prepared in consolidated form.

G.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 G.08.

G.11 (1) Where not more than nine months have elapsed since the end of the financial year to which the last published annual 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 currently listed at a securities exchange.

- (2) Where the issuer prepares consolidated annual accounts, the interim financial statement 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.

G.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.

G.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 and/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.

G.14 A table showing the changes in financial position of the group over each of the last two financial years (three where available) in the form of a cash flow statement.

G.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 -

- (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.
- (2) The items of information listed in (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.
- (3) The information required by (1) (e) and (f) above may be omitted where the undertaking in which a participating interest is held does not publish annual accounts.
- (4) The information required by (1)(d) to (j) 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 (1)(i) and (j) 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.

G.16 The name, registered office and proportion of capital held in respect of each undertaking not failing to be disclosed under paragraph G.15(1) or (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.

G.17 When the prospectus includes consolidated annual accounts, disclosure:

- (a) of the consolidation principles applied (which must be described explicitly where such principles are not consistent with IAS);
- (b) 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 G.15; and

- (c) for each of the undertakings referred to in (b) above;
  - (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 interest, if consolidation has been effected on a pro rata basis.

G.18 Particulars of any arrangement under which future dividends are waived or agreed to be waived.

- G.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:
    - (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, 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;
    - (c) 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;
    - (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, 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;

- (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 by paragraphs (c) to (f) above arose, stating whether they arose from the purchase of assets by the issuer or any of its subsidiaries.
- (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 (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 being made if necessary.
- (3) For each item identified in (1) above, where applicable -
- (a) the names of the lenders if not debenture holders;
  - (b) the amount, terms and conditions of repayment or renewal;
  - (c) the rates of interest payable on each item;
  - (d) details of the security, if any;
  - (e) details of conversion rights; and
  - (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.
- (4) If the issuer prepares consolidated annual accounts, the principles laid down in paragraph G.06 apply to the information set out in this paragraph G.19.

G.20 Details of material loans by the issuer or by any of its subsidiaries stating -

- (a) the date of the loan;
- (b) to whom made;
- (c) the rate of interest;
- (d) if the interest is in arrears, the last date on which it was paid and the extent of the arrears;
- (e) the period of the loan;
- (f) the security held;
- (g) the value of such security and the method of valuation;
- (h) if the loan is unsecured, the reasons therefor; and
- (i) if the loan was made to another company, the names and addresses of the directors of such company.

G.21 Details as described in paragraph G.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.

- G.22 Disclose how the loans receivable arose, stating whether they arose from the sale of assets by the issuer or any of its subsidiaries.
- G.23 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, 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.
- G.24 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.
- The foreseeable future should normally be construed as the nine months subsequent to the date of the publication of the prospectus.
- G.25 The following information regarding the acquisition, within the last two financial 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 –
- (a) the date of any such acquisition or proposed acquisitions;
  - (b) 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;
  - (c) details of the valuation of the property;
  - (d) any goodwill paid and how such goodwill was or is to be accounted for;
  - (e) any loans incurred, or to be incurred, to finance the acquisition, or proposed acquisition;
  - (f) the nature of title or interest acquired or to be acquired;

- (g) details regarding the vendors as described in paragraph I.01;
- G.26 The following details regarding any property disposed of during the past two years (three where available), or to be disposed of, by the issuer, or any of its subsidiaries-
- (a) the dates of any such disposal or proposed disposal;
  - (b) 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;
  - (c) details of the valuation of the property; and
  - (d) 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.
- G.27 Where the financial statements provided under paragraphs G.01 to G.05 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 exchange rate designated by the Central Bank of Kenya for this purpose, if any -
- (a) at the latest practicable date;
  - (b) the high and low exchange rates for each month during the preceding twelve months; and
  - (c) for the two 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.

**ID.H.00 The offer and listing**

- H.01 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.
- H.02 A statement of the resolutions, authorisations and approvals by virtue of which the shares have been or will be created and/or issued.
- H.03 The nature and amount of the issue.

- H.04 The number of shares which have been or will be created and/or issued, if predetermined.
- H.05 (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, like details must be given for each class.
- (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.
- H.06 The time limit (if any) after which entitlement to dividend lapses and an indication of the person in whose favour the lapse operates.
- H.07 A statement regarding tax on the income from the shares withheld at source -
- (a) in the country of origin; and
- (b) in Kenya.
- H.08 Arrangements for transfer of the shares and (where permitted) any restrictions on their free transferability (for example, provisions requiring transfers to be approved).
- H.09 The fixed date(s) (if any) on which entitlement to dividends arises.
- H.10 Other securities exchanges (if any) where admission to listing is being or will be sought.
- H.11 The names and addresses of the issuer's registrar and paying agent(s) for the shares in any other country where admission to listing has taken place.
- H.12 The following information must be given concerning the terms and conditions of the issue of securities whether through a public or private placing with respect to the listing at a securities exchange where such issue or placing is being effected at the same time as the listing or has been effected within the three months preceding admission:
- (a) 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);
- (b) the total amounts which have been or are being issued or placed and the number of shares offered, where applicable by category;
  - (c) if a public or private 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 -
    - (i) 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;
    - (ii) the issue premium and the amount of any expenses specifically charged to any subscriber or purchaser; and
    - (iii) the methods of payment of the price, particularly as regards the paying-up of shares which are not fully paid;
  - (d) The procedure for the exercise of any right of pre-emption, transferability of subscription rights and treatment of subscription rights not exercised;
  - (e) 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;
  - (f) The names, addresses and descriptions of the persons underwriting or guaranteeing the issue and where the underwriter is a company, the description must include -
    - (i) the place and date of incorporation and registered number of the company;
    - (ii) the names of the directors of the company;
    - (iii) the name of the secretary of the company;
    - (iv) the bankers to the company; and
    - (v) the authorised and issued share capital of the company.
  - (g) where not all of the issue has been or is being underwritten or guaranteed, a statement of the portion not covered;
  - (h) a statement or estimate of the overall amount and/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 or margin, guarantee commission, placing or selling agent's commission; and

- (i) 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 H.13 below, the reasons for the difference between the capital offered and the said minimum subscription.

H.13

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:

- (a) the purchase price of any property, as referred to in paragraph G.25, purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;
- (b) 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.
- (c) the repayment of any moneys borrowed in respect of any of the foregoing matters;
- (d) working capital, stating the specific purposes for which it is to be used and the estimated amount required for each such purpose;
- (e) any other material expenditure, stating the nature and purpose(s) thereof and the estimated amount in each case;
- (f) the amount(s) 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
- (g) 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.

H.14

A description of the shares for which application is made and, in particular, the number of shares and nominal value per share in the absence of nominal value, the accounting par value or the total nominal value, the exact designation or class, and coupons attached.

H.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.

- H.16 The securities exchange at which the shares are to be listed and the dates on which the shares will be admitted to listing and on which dealings will commence.
- H.17 The names of the securities exchanges (if any) on which shares of the same class are already listed.
- H.18 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.
- H.19 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 (a) to (c) 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 two years, the issuer shall disclose -
- (a) for the two most recent full financial years, the annual high and low market prices;
  - (b) for the one most recent full financial year, and any subsequent period, the high and low market prices for each full financial quarter; and
  - (c) for the most recent six months, the high and low market prices for each month.
- H.20 A statement whether the issuer assumes responsibility for the withholding of tax at source.
- H.21 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 than 5% of the offering.
- H.22 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.
- H.23 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

- H.24 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 15% of the securities offered in the prospectus in case of over subscription of the securities.
- H.25 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(s) or dealer(s) that will participate in the offering stating the amount to be offered through each.
- H.26 If the securities are to be offered in connection with the writing of exchange-traded call options where applicable in the case of an issuer whose securities are listed at a securities exchange outside Kenya, describe briefly such transactions.
- H.27 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 public contribution in the proposed public offering and the effective cash contributions of such persons.
- H.28 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.
- H.29 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.
- H.30 The following information on expenses shall be provided:
- (a) 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;
  - (b) 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:

- (i) advertisement;

- (ii) printing of prospectus;
- (iii) approval and listing fees;
- (iv) brokerage commissions;
- (v) financial advisory fees;
- (vi) legal fees; and
- (vii) underwriting fees.

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

- (c) 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.

H.31 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.

**ID.I.00 Vendors**

I.01 The names and addresses of the vendors of any assets purchased or acquired by the issuer or any subsidiary company during the two 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, 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 two 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.

I.02 State whether or not the vendors have given any indemnities, guarantees or warranties.

I.03 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 of any cash or other payment regarding restraint of trade and the nature of such restraint of trade.

I.04 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.

- I.05           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.
- I.06           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.
- I.07           The amount of any cash or securities paid or benefit given within two preceding years or proposed to be paid or given to any promoter not being a director, and the consideration for such payment or benefit.
- I.08           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.

**FIXED INCOME SECURITIES MARKET SEGMENT  
DISCLOSURE REQUIREMENTS FOR PUBLIC ISSUES**

- ID.A.00** **Identity of directors, senior management and advisers (i.e. persons responsible for the information disclosed)**
- A.01 The name, home or business address and function of each of the persons giving the declaration set out in paragraph A.02
- A.02 A declaration in the following form:
- 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.
- A.03 The names, addresses and qualifications of the auditors who have audited the issuer's annual accounts in accordance with IAS for the last two financial years.
- A.04 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.
- A.05 The names and addresses 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.
- ID.B.00** **Offer statistics and expected timetable**
- B.01 i. A statement that the Authority has approved the public offering and listing of the securities at the Fixed Income Securities Market Segment of a securities exchange.
- Cautionary statement of the Authority.
- B.02 A statement that a copy of the prospectus has been delivered to the Registrar.
- ID.C.00** **Information on the issuer**
- C.01 The name, registered office and, if different, head office of the issuer. If the issuer has changed its name within the last three

years, the old name must be printed in bold type under the new name.

- C.02 The country of incorporation of the issuer.
- C.03 The date of incorporation and the length of life of the issuer, except where indefinite.
- C.04 The legislation under which the issuer operates and the legal form which it has adopted under that legislation.
- C.05 A description of the issuer's principal objects and reference to the clause(s) of the memorandum of association in which they are described.
- C.06 The place and date of registration of the issuer and its registration number.
- C.07 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 a named place as the Authority may approve, where the following documents or copies thereof (where applicable) could be inspected:
- (a) the memorandum and articles of association of the issuer;
  - (b) any trust deed of the issuer or of its subsidiary undertakings which is referred to in the information memorandum;
  - (c) each document mentioned in paragraphs C.12 (material contracts) or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof;
  - (d) copies of service agreements with managers or secretary/ies, underwriting, vendors' and promoters' agreements entered into during the last two financial years;
  - (e) the latest certified appraisals or valuations relative to movable and immovable property and items of a similar nature, if applicable;
  - (f) all reports, letters, and other documents, balance sheets, valuations and statements by any expert any part of which is included or referred to in the prospectus;
  - (g) written statements signed by the auditors or accountants setting out the adjustments made by them in arriving at the figures shown in any accountants' report included pursuant to paragraph G.04 and giving the reasons therefor; and

- Cap 486. (h) 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.
- C.08 Where any of the documents listed in paragraph C.07 are not in the English language, translations into English must also be available for inspection. In the case of any document mentioned in paragraph C.12 (material contracts), a translation of a summary of such document may be made available for inspection, if the Authority so requires.
- C.09 The amount of the issuer's authorised 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, 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.
- C.10 The names of the persons, so far as they are known to the issuer, 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.
- C.11 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.
- C.12 A summary of the principal contents of :
- (a) 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, 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 C.07; and

- (b) 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.
  
- C.13 If any contract referred to in paragraph C.12 relates to the acquisition of securities in an unlisted subsidiary, or associated company, where all securities in the issuer have not been acquired, state the reason why 100% of the shareholding was not acquired, and whether anyone associated with the controlling shareholder(s) of the issuer, or associated companies, or its subsidiaries is interested and to what extent.
  
- C.14 A description of the group's principal activities, stating the main categories of products sold and/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.
  
- C.15 Details of any material changes in the businesses of the issuer during the past five years.
  
- C.16 Where the information given pursuant to paragraphs C.14 to C.15 has been influenced by exceptional factors, that fact must be mentioned.
  
- C.17 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.
  
- C.18 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.
  
- C.19 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 -
  - (a) the geographical distribution of these investments; and
  - (b) the method of financing such investments.

- C.20 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.
- C.21 Information concerning policy on the research and development of new products and processes over the past three financial years, where significant.
- C.22 The basis for any statements made by the issuer regarding its competitive position shall be disclosed.

**ID.D.00 Operating and financial review and prospectus (the recent development and prospects of the group)**

- D.01 Unless otherwise approved by the Authority in exceptional circumstances:
- (a) 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 -
    - (i) the most significant recent trends in production, sales and stock and the state of the order book; and
    - (ii) recent trends in costs and selling prices; and
  - (b) 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.
- D.02 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".
- D.03 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.

D.04 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.

**ID.E.00 Directors and employees**

E.01 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:

- (a) directors, alternate and proposed directors of the issuer and each of its material subsidiaries including details of other directorships;
- (b) 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
- (c) 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.
- (d) 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.

E.02 In the case of a foreign issuer, information similar to that described in E.01, 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.

E.03 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.

**ID.F.00 Major shareholders and related party transactions**

F.01 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 the issuer's

voting securities:

- a) 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;
- b) disclose any significant change in the percentage ownership held by any major shareholders during the past three financial years; and
- c) indicate whether the issuer's major shareholders have different voting rights, or an appropriate negative statement.

- F.02 Information shall be provided as to the portion of each class of securities held in Kenya and the number of shareholders in Kenya.
- F.03 To the extent known to the issuer, state whether the issuer is directly or indirectly owned or controlled by another corporation(s), by any foreign government or by any other natural or legal person(s) severally or jointly, and, if so, give the name(s) of such controlling corporation(s), government or other person(s), and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote.
- F.04 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.
- F.05 In so far as is known to the issuer, the name of any person other than a director who, directly or indirectly, is interested in 10% or more of the issuer's capital, together with the amount of each such person's interest.
- F.06 Provide information required on (a) and (b) 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:
- (a) enterprises that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the issuer;
  - (b) associates;
  - (c) 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;

- (d) 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
- (e) enterprises in which a substantial interest in the voting power is owned, directly or indirectly, by any person described in (c) or (d) or over which such a person is able to exercise significant influence. This includes 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:
  - (i) 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
  - (ii) the information given should include the largest amount outstanding during the period covered, the amount outstanding as of the latest practicable date, nature of the costs, the transaction(s) in which it was incurred and the interest rate on such transaction(s).
  - (iii) the amount of outstanding loans (including guarantees of any kind) made by the issuer or any of its parent or subsidiary(ies) to or for the benefit of any of the persons listed above.

- F.07 Full information of any material inter-company finance.
- F.08 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.
- F.09 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.

**ID.G.00**      **Financial information**

- G.01      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.
- G.02      A statement of what other information in the prospectus has been audited by the auditors.
- G.03      Financial information as required by paragraphs G.09 to G.11 set out in the form of a comparative table together with any subsequent interim financial statements if available.
- G.04      Financial information as required by paragraphs G.09 to G.11 set out in the form of an accountants' report.
- G.05      If applicable, an accountants' report, as set out in paragraphs G.09 to G.11 on the asset which is the subject of the transaction.
- G.06      (a) If the issuer prepares consolidated annual accounts only, it must include those accounts in the prospectus in accordance with paragraph G.03 or G.04.
- (b) If the issuer prepares both own and consolidated annual accounts, it must include both sets of accounts in the prospectus in accordance with paragraph G.03 or G.04. 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.
- G.07      (a) 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.
- (b) 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 (a) above where the issuer also includes its own annual accounts in the prospectus.
- G.08      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.

- G.09 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 and/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.
- G.10 A table showing the changes in financial position of the group over each of the last three financial years in the form of a cash flow statement.
- G.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 -
- (a) earnings before interest and taxes interest cover;
  - (b) funds from operations to total debt percentage;
  - (c) free cash flow to total debt percentage;
  - (d) total free cash flow to short-term debt obligations;
  - (e) not profit margin;
  - (f) post-tax return (before financing on capital employed);
  - (g) long term debt to capital employed; and
  - (h) total debt to equity.
- G.12 Where the prospectus includes consolidated annual accounts, disclosures are required:
- (a) of the consolidation principles applied (which must be described explicitly where such principles are not consistent with IAS);
  - (b) 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 G.15; and
  - (c) for each of the undertakings referred to in (b) above -
    - (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.

G.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 -
  - (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, 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;
  - (c) 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, 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 by paragraphs (c) to (f) above arose, stating whether they arose from the purchase of assets by the issuer or any of its subsidiaries.
- (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 (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 being made if necessary

- (3) For each item identified in (1) above, where applicable -
- (a) the names of the lenders, if not debenture holders;
  - (b) the amount, terms and conditions of repayment or renewal;
  - (c) the rates of interest payable on each item;
  - (d) details of the security, if any;
  - (e) details of conversion rights;
  - (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; and
  - (g) if the issuer prepares consolidated annual accounts, the principles laid down in paragraph G.06 apply to the information set out in this paragraph G.13.

G.14 Details of material loans by the issuer or by any of its subsidiaries stating:

- (a) the date of the loan;
- (b) to whom made;
- (c) the rate of interest;
- (d) if the interest is in arrears, the last date on which it was paid and the extent of the arrears;
- (e) the period of the loan;
- (f) the security held;
- (g) the value of such security and the method of valuation;
- (h) if the loan is unsecured, the reasons therefor; and
- (i) if the loan was made to another company, the names and addresses of the directors of such company.

G.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 –

- (a) the name and address of the registered office;
  - (b) 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.
- (2) The items of information listed in (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.
- (3) The information required by (1) (e) and (f) above maybe omitted where the undertaking in which a participating interest is held does not publish annual accounts.
- (4) The information required by (1) (d) to (j) 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 (1) (i) and (j) 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 securities in question.

#### G.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.

G.17 Where the financial statements provided under paragraphs G.01 to G.05 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:

- (a) at the latest practicable date;
- (b) the high and low exchange rates for each month during the preceding twelve months;
- (c) 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
- (d) 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.

**FL.H.00 The debt securities for which application is being made**

H.01 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.

H.02 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.

H.03 A statement that a copy of the information memorandum or prospectus, as the case may be, has been delivered to the Registrar.

H.04 The nominal amount of the debt securities and if this amount is not fixed, a statement to that effect must be made.

H.05 The nature, number and numbering of the debt securities and the denominations.

H.06 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.

- H.07 The procedures for the allocation of any other advantages and the method of calculating such advantages.
- H.08 A statement regarding tax on the income from the debt securities withheld at source -
- (a) in the country of origin (if applicable); and
  - (b) in Kenya.
- H.09 A statement whether the issuer assumes responsibility for the withholding of tax at source.
- H.10 Arrangements for the amortisation of the loan, including the repayment procedures.
- H.11 The names and addresses of the issuer's registrar and paying agent(s) for the securities in any other country where the securities listing (if applicable) has taken place.
- H.12 The currency of the loan and any currency option; if the loan is denominated in units of account, the contractual status of such units.
- H.13 The final repayment date and any earlier repayment dates.
- H.14 The date from which interest becomes payable and the due dates for interest.
- H.15 The time limit on the validity of claims to interest and repayment of principal.
- H.16 The procedures and time limits for delivery of the debt securities, and a statement as to whether temporary documents of title will be issued.
- H.17 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.
- H.18 A statement of the resolutions, authorisations and approvals by virtue of which the debt securities have been or will be created and/or issued.
- H.19 The nature and amount of the issue.
- H.20 The number of debt securities which have been or will be created and/or issued.
- H.21 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.

- H.22 Details of trustees or of any other representation for the body of debt security holders.
- H.23 (1) The name, function, description and head office of the trustee or other representative of the debt security holders; and  
(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.
- H.24 A summary of clauses subordinating the loan to other debts of the issuer already contracted or to be contracted.
- H.25 A statement of the legislation under which the debt securities have been created and the courts competent in the event of litigation.
- H.26 A statement whether the debt securities are in registered or certificate form or where dematerialised a statement of account to be issued.
- H.27 Details of any arrangements for transfer of the securities and any restrictions on the free transferability of the debt securities.
- H.28 Other securities exchanges (if any) where listing is being or will be sought.
- H.29 (1) The names, addresses and descriptions of the persons underwriting or guaranteeing the issue, and -  
(a) where the underwriter is a company, the description must include -  
(i) the place and date of incorporation and registered number of the issuer;  
(ii) the names of the directors of the company;  
(iii) the name of the secretary of the company;  
(iv) the bankers to the company where applicable; and  
(v) the authorised and issued share capital of the company.  
(b) (i) 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.

- (ii) 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.

- (2) Where not all of the issue is underwritten or guaranteed, a statement of the portion not covered shall be made.

H.30 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.

H.31 The names of the securities exchanges (if any) on which debt securities of the same class are already listed.

H.32 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.

H.33 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:

- (a) the procedure for the exercise of any right of pre-emption; the negotiability of subscription rights, the treatment of subscription rights not exercised and -
  - (i) 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;
  - (ii) the issue premium or discount and the amount of any expenses specifically charged to the subscriber or purchaser; and
  - (iii) the methods of payment of the price, particularly as regards the paying-up of securities which are not fully paid.
- (b) 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.
- (c) 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.
- (d) the names of the receiving agents.

- (e) 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.
- (f) except in the case of continuous debt security issues, the estimated net proceeds of the loan. If the capital offered is more than the amount of the minimum subscription referred to in paragraph H.34, the reason for the difference between the capital offered and the said minimum subscription.
- (g) the purpose of the issue and intended application of its proceeds.

H.34 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:

- (a) 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;
- (b) 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;
- (c) the repayment of any moneys borrowed in respect of any of the forgoing matters;
- (d) working capital, stating the specific purposes for which it is to be used and the estimated amount required for each such purpose;
- (e) any other material expenditure, stating the nature and purposes thereof and the estimated amount in each case; and
- (f) 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.

H.35 A summary of the rights conferred upon the holders of the debt securities and particulars of the security (if any) therefor.

H.36 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.

H.37 Particulars of the profits cover for interest (if fixed), and of the net tangible assets.

- H.38 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:
- (a)
    - (i) the pro rata entitlement;
    - (ii) the last date on which transfers were or will be accepted for registration for participation in the issue;
    - (iii) how the securities rank for interest;
    - (iv) the nature of the document of title and its proposed date of issue;
  - (b) 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;
  - (c) a statement pointing out possible tax implications for non-residents.
- H.39 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.
- H.40 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.
- H.41 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.
- H.42 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.

**DISCLOSURE REQUIREMENTS FOR ADDITIONAL ISSUES****(Rights, scrip dividend, capitalization issues and open offers.)**

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.
2. 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.
3. An issuer shall not issue shares which confer a controlling interest without prior approval of shareholders in general meeting through a special resolution.
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.
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.
  - (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.
6. 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 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.
7. 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 5 (1) above, a subsidiary company which represents 25% 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.
8. The obligation to obtain the consent of shareholders set out in paragraph 7 does not apply if the subsidiary company is itself listed and so must comply with paragraph 6. 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.

9. In a rights issue or open offer an issuer need not comply with paragraph (8) above with respect to:
  - (a) securities representing fractional entitlements; or
  - (b) 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.
10. 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 renunciability in part or in whole in favour of a third party at the option of the entitled shareholders.
11. In relation to rights issues 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.
12. An issuer shall issue to the persons entitled to a rights issue **within ten days** after a books closing date:
  - (a) letter of entitlement of rights; and
  - (b) provisional letter of allotment incorporating:
    - (i) form of acceptance;
    - (ii) request for splits;
    - (iii) form of renunciation; and
    - (iv) excess shares application form.
13. Except in the case of a rights issue to shareholders, 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:

- (a) the number of securities to be so allotted;
  - (b) the precise terms and conditions of the issue; and
  - (c) that such directors shall abstain from exercising any voting rights.
14. 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.

15. Once the basis of the entitlement is declared the issuer shall not make any subsequent alterations to such entitlements.
16.
  - (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 books closure.
  - (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
  - (3) Where the shareholders resolutions have not been obtained, the Authority may approve the application subject to the approval of the shareholders.
17.
  - (1) The issuer's application shall state:
    - (a) the applicant's name and date, place and number of incorporation;
    - (b) the dates of resolutions passed by its board of directors and shareholders (where already obtained) furnish certified copies as required under the Companies Act, authorizing the issue of new shares, and if there were any proceedings of a court of law involved, the date and outcome of such proceedings;
    - (c) designation or title of each class of shares proposed for additional listing and its amount, par value and whether fully paid;
    - (d) the number of additional shares to be listed;
    - (e) the effective date on which the additional shares are to be fully qualified for admission to trading;
    - (f) the exchange at which the applicant's shares are listed;
    - (g) purpose of issuance;
    - (h) the names of the persons responsible for the application;
    - (i) number of shares authorized by the articles and number of shares issued and fully paid;
    - (j) 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;
    - (k) 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;

- (l) 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;
- (m) the nature of the document of title (if any) and its proposed date of issue;
- (n) how any fractions will be treated;
- (o) 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) details regarding the letters of allocation such as -
  - (i) acceptance;
  - (ii) renunciation;
  - (iii) splitting; and
  - (iv) mode of payment.
- (q) in the case of a rights or scrip dividend issue or open offer -
  - (i) how shares not taken up will be dealt with and the time in which the offer may be accepted;
  - (ii) whether or not the documents of title (if any) are renounceable; and
  - (iii) a statement in bold and uppercase, on the front page, drawing shareholders' attention to the type of election to be made (i.e. whether shareholders will receive either cash or scrip if they fail to make the election);

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;

- (r) a statement pointing out possible tax implications for non-residents.
- (2) The issuer's application shall be endorsed with the following declaration under the signature of two directors or one director and the secretary:

“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”.

18. An issuer shall issue to the persons entitled to a rights issue **within ten days** after a books closing date:

- (a) letter of entitlement of rights; and

- (b) provisional letter of allotment incorporating:-
  - (i) form of acceptance;
  - (ii) request for splits;
  - (iii) form of renunciation; and
  - (iv) excess shares application form.
- 19. 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 week after the information memorandum to shareholders has been approved by the Authority.
- 20. 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 Capital Markets (Collective Investment Schemes) Regulations, 2001.
- 21. The issuer shall in the case of rights or scrip dividend issue:
  - (a) show a timetable in respect of the following events-
    - (i) books closure date to determine rights entitlement;
    - (ii) last day for splitting;
    - (iii) last day for exercise or rights;
    - (iv) last day for renunciation of rights;
    - (v) last day for application for additional shares; and
  - (b) state-
    - (i) the rights new issue ratio, date and basis of determining the price of new issue shares;
    - (ii) the expected net proceeds and its application;
    - (iii) if any underwriting agreement exists, a copy of such agreement shall be submitted to the Authority;
    - (iv) the names and addresses of the auditors who have audited the accounts of the issuer during the preceding three years; and
    - (v) the names and addresses of the stockbrokers sponsoring the application for admission to listing.
- 22. An application for rights issue shall be accompanied by the following:
  - (a) information about the management of the applicant;
  - (b) a statement on any important development(s) affecting the applicant or its business since the latest annual report of the applicant;
  - (c) if the applicant's securities have been suspended, provide details of the same;
  - (d) 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;

- (e) one copy of each contract, plan or agreement pursuant to which the shares applied are to be issued;
  - (f) 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;
  - (g) one copy each of all letters of approval from the relevant government authorities; and
  - (h) a statement or estimate of the cost involved in the application divided into-
    - (i) brokerage expenses;
    - (ii) approval and listing fees;
    - (iii) printing;
    - (iv) advertising;
    - (v) professional fees (legal, auditors, valuers); and
    - (vi) other costs.
23. 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-
- (a) full title (including interest rate and maturity date);
  - (b) amount authorized by the debt instrument;
  - (c) amount issued to-date;
  - (d) amount redeemed;
  - (e) amount outstanding;
  - (f) issue price;
  - (g) date of payment of interest; and
  - (h) date and terms of redemption.
24. The issuer shall, in the case of acquisitions, state-
- (a) whether the shares applied for are to be issued as a total or part of the consideration for the acquisition of-
    - (i) a controlling interest in, or the major part of the business and assets of, another company; or
    - (ii) specific assets or properties;
  - (b) names of parties involved in the acquisition and the date of contract entered into;
  - (c) 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;
  - (d) 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;
  - (e) why the management of the issuer regards the acquisition as a favourable one from its point of view; and

- (f) 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.
25. 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 financial statements of that other company.
  26. If any engineering, geological or appraisal reports, were obtained in connection with the proposed acquisition the issuer shall include appropriate excerpts from such reports.
  27. If the shares applied for are in respect of bonus shares capitalized from reserves the issuer shall-
    - (a) identify the reserves from which the bonus shares are to be capitalized;
    - (b) show a three year schedule of the movements in the relevant reserve accounts; and
    - (c) 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.
  28. The issuer shall:
    - (a) make a declaration that the annual accounts have been audited;  
and
    - (b) 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 prospectus are included in the report.
  29. 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.
  30. Disclosure of underwriting agreement, costs, details of the underwriter and relationship (if any) of the underwriter to the issuer or any if its directors shall be made.

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**CONTINUING OBLIGATIONS**

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**General Continuing Obligations**

- A.01 Information to be disclosed shall include but not be restricted to any major development in the issuer's sphere of activity or expectation of performance which is not public knowledge which may:
- (a) 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
  - (b) 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.
- A.02 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 placees' of the balance of a rights issue not taken up by shareholders. In such cases, the issuer must advise, preferably in writing, the recipients of such information that it is confidential.
- A.03 Information required by and provided in confidence to, and for the purposes of a government department, the Central Bank of Kenya, the Authority, or any other statutory or regulatory body need not be published.
- A.04 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.
- A.05 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 to the securities exchange and the market so that the announcement at the meeting is made no

earlier than the time at which the information is published to the market and forwarded to the Authority.

- A.06 An issuer must 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.
- A.07 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 such securities exchange.

**CO.B.00 Disclosure of periodic financial information  
Dividends and interest**

- B.01 (1) Announcements of dividends and/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, by means of a press announcement. The resolution must be **at least twenty one days** prior to the closing date of the register and shall contain at least the following information:
- (a) the closing date for determination of entitlements;
  - (b) the date on which the dividend or interest will be paid; and
  - (c) the cash amount that will be paid for the dividend or interest.
- (2) 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.
- B.02 Dividends declared by an issuer shall be paid out **within ninety days** of the date of the books closure in case of interim dividends, and **ninety days** of approval of the shareholders in the case of the final dividend.
- B.03 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 press announcement.
- B.04 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.

- B.05 An issuer whose securities are listed shall announce any intention to fix a books closing date and the reason thereof, stating the books closure date, 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 closure date shall be subject to the approval of the shareholders at the annual general meeting. The announcement shall include, the address of the share registry at which documents will be accepted for registration.

### **Interim and quarterly reports**

- B.06 (1) In this part the terms -

“interim report” means half year financial reports to be issued **within sixty days** of the interim balance date;

“final report” means annual/ year end financial report;

“quarterly report” means a financial report, other than an interim or final report, covering a period of three months, issued in the course of a financial year on a best practice basis.

- (2) All interim reports shall be prepared in accordance with the IAS 34 - Interim Financial Reporting and IAS 1 - Presentation of Financial Statements and any other relevant IAS requirement.

- (3) All issuers who have adopted a quarterly reporting practice shall, except in the case of a report issued pursuant to paragraph B.18, continue to issue reports on a quarterly basis in order to maintain consistency.

- B.07 Every issuer of securities issued to the public approved by the Authority whether or not such securities are listed, shall prepare and publish an interim report **within sixty days** of the respective interim reporting date. An interim financial report shall include at a minimum the following components:

- (a) condensed balance sheet;
- (b) condensed income statement;

- (c) condensed statement showing either -
  - (i) all changes in equity; or
  - (ii) changes in equity other than those arising from capital transactions with owners and distributions to owners (statement of recognised gains and losses);
- (d) condensed cash flow statement; and
- (e) selected explanatory notes.

**B.08** 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.

**B.09** **Basic and diluted earnings per share should be presented on the face of an income statement, complete or condensed, for an interim period.**

**B.10** 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:

- (a) 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;
- (b) explanatory comments about the seasonality or cyclicity of interim operations;
- (c) 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
- (d) the nature and amount of changes in estimates of amounts reported.

The information should normally 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.

- B.11 Interim reports should include interim financial statements (condensed or complete) for periods as follows:
- (a) balance sheet as of the end of the current interim period and a comparative balance sheet as of the end of the immediately preceding financial year;
  - (b) 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;
  - (c) 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
  - (d) 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.
- B.12 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.
- B.13 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, half-yearly, 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.
- B.14 Revenues that are received seasonally, cyclically, or occasionally within a financial year should not be anticipated or deferred as of an interim date if anticipation or deferral would not be appropriate at the end of the issuer's financial year.
- B.15 Costs that are incurred unevenly during an issuer's financial year should be anticipated or deferred for interim reporting purposes if, and only if, it is also appropriate to anticipate or defer that type of cost at the end of the financial year.

B.16 The measurement procedures to be followed in an interim financial report should be designed to ensure that the resulting information is reliable and that all material financial information that is relevant to an understanding of the financial position or performance of the enterprise is appropriately disclosed. While measurements in both annual and interim financial reports are often based on reasonable estimates, the preparation of interim financial reports generally will require a greater use of estimation methods than annual financial reports.

B.17 A change in accounting policy, other than one for which the transition is specified by a new IAS, should be reflected by -

- (a) 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 IAS 8; or
- (b) restating the financial statements of prior interim periods of the current financial year, if the issuer follows the allowed alternative treatment under IAS 8. In this case, comparable interim periods of prior financial years are not restated.

B.18 Any announcement made by the issuer in respect of -

- (a) a dividend;
- (b) a capitalisation or rights issue;
- (c) the closing of the books;
- (d) a capital return; or
- (e) sales or turnover.

shall be issued so as to coincide with the release of the annual, interim or quarterly financial statement.

B.19 An issuer of securities listed at a securities exchange in Kenya shall publish an interim report within two months of the end of the interim period in the financial year and shall notify the securities exchange and the Authority. Where an issuer has subsidiaries, the said report shall be based on the group accounts.

### **Annual Financial Statements**

B.20 (1) Every issuer of securities to the public whether listed or not shall prepare an annual report containing audited annual financial statements within four months of the close of its financial year.

(2) A complete set of financial statements includes the following components:

- (a) balance sheet;

- (b) income statement;
- (c) a statement showing either -
  - (i) all changes in equity; or
  - (ii) changes in equity other than those arising from capital transactions with owners and distributions to owners;
- (d) cash flow statement; and
- (e) accounting policies and explanatory notes.

B.21 Directors should select and apply accounting policies so that the financial statements comply with all the requirements of each applicable IAS and interpretation of the Standing Interpretations Committee of IAS. Where there is no specific requirement, directors should develop policies to ensure that the financial statements provide information that is:

- (a) relevant to the decision-making needs of users; and
- (b) reliable in that they -
  - (i) represent accurately the results and financial position of the issuer;
  - (ii) reflect the economic substance of events and transactions and not merely the legal form;
  - (iii) are neutral, that is free from bias;
  - (iv) are prudent; and
  - (v) are complete in all material respects.

B.22 The presentation and classification of items in the financial statements should be retained from one period to the next unless:

- (a) 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
- (b) a change in presentation is required by an IAS or an interpretation of the Standing Interpretations Committee of the IAS.

B.23 Each component of the financial statements should be clearly identified. In addition, the following information should be prominently displayed, and repeated when it is necessary for a proper understanding of the information presented:

- (a) the name of the issuer or other means of identification;
- (b) whether the financial statements cover an individual company or a group;
- (c) the balance sheet date or the period covered by the financial statements, whichever is appropriate to the

- related component of the financial statements;
- (d) the reporting currency; and
- (e) the level of precision used in the presentation of figures in the financial statements.

The period covered by financial statements should be no less than twelve months.

B.24 As a minimum, the face of the balance sheet should include line items which present the following amounts:

- (a) property, plant and equipment;
- (b) intangible assets;
- (c) financial assets (excluding amounts shown under (d), (f) and (g));
- (d) investments accounted for using the equity method;
- (e) inventories;
- (f) trade and other receivables;
- (g) cash and cash equivalents;
- (h) trade and other payables;
- (i) tax liabilities and assets as required by IAS 12 - Income Taxes;
- (j) provisions;
- (k) non-current interest-bearing liabilities;
- (l) minority interest;
- (m) issued capital and reserves; and
- (n) unclaimed dividends since the adoption of the IAS.

B.25 An issuer should disclose the following either on the face of the balance sheet or in the notes:

- (a) for each class of share capital -
  - (i) the number of shares authorised;
  - (ii) the number of shares issued and fully paid, and issued but not fully paid;
  - (iii) par value per share, or that the shares have no par value;
  - (iv) a reconciliation of the number of shares outstanding at the beginning and at the end of the year;
  - (v) the rights, preference and restrictions attaching to that class including restrictions on the distribution of dividends and the repayment of capital;
  - (vi) shares of the issuer held by related companies of the issuer; and
  - (vii) shares reserved for issuance under options and sales contracts, including the terms and amounts;
- (b) a description of the nature and purpose of each reserve within owner's equity; and

- (c) when dividends have been proposed but not formally approved for payment, the amount included (or not included) in liabilities;

B.26 As a minimum, the face of the income statement should include line items which present the following amounts -

- (a) revenue;
- (b) the results of operating activities;
- (c) finance costs;
- (d) share of profits and losses of associates and joint ventures accounted for using the equity method;
- (e) tax expense;
- (f) profit or loss from ordinary activities;
- (g) extraordinary items;
- (h) minority interest; and
- (i) net profit or loss for the period.

B.27 (1) An issuer should present, as a separate component of its financial statements, a statement showing -

- (a) the net profit or loss for the period;
- (b) each item of income and expense, gain or loss which, is recognised directly in equity, and the total of these items; and
- (c) the cumulative effect of changes in accounting policy and the correction of fundamental errors dealt with under the benchmark treatments in IAS 8.

(2) In addition, an issuer should present, either within this statement or in the notes -

- (a) capital transactions with owners and distributions to owners;
- (b) the balance of accumulated profit or loss at the beginning of the period and at the balance sheet date, and the movements for the period; and
- (c) 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.

B.28 An issuer should disclose the following if not disclosed elsewhere in information published with the financial statements:

- (a) 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);

- (b) a description of the nature of the issuer's operations and its principal activities;
- (c) The name of the parent company and the ultimate parent company of the group; and
- (d) either the number of employees at the end of the period or the average for the period covered by the financial statements.

B.29 Every issuer shall notify the Authority, the securities exchange and the media of its annual results within twenty-four hours following approval of the issuer's directors for submission to shareholders.

B.30 Every issuer shall, within six months after the end of each financial year and **at least twenty-one clear days** (including weekends and public holidays) before the date of the annual general meeting, distribute to all shareholders and holders of its debt securities:

- (a) a notice of annual general meeting and annual financial statements for the relevant financial year; and
- (b) the auditors report on the issuer's financial statements.

B.31 Where an issuer has subsidiaries, its annual audited accounts shall be prepared in consolidated form in accordance with the Companies Act and the relevant IAS. There shall be set out as separate items in every issuer's annual report:

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- (a) the amount of turnover and investments and other income excluding extra ordinary items, together with comparative figures for the previous year;
- (b) a statement of source and application of funds with comparative figures for the previous year;
- (c) a statement as at 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;
- (d) 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, providing-
  - (i) the names of the lender and the borrower;
  - (ii) the relationship between the borrower and the director (if the director is not the borrower);

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- (iii) the amount of the loan;
- (iv) the interest rate;
- (v) the terms as to payment of interest and repayment of principle; and
- (vi) the security provided.

- B.32 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.
- B.33 In the case where a valuation has been conducted on the fixed assets of the issuer and/or its subsidiaries, a copy of the valuation report shall be made available for inspection at the issuer's registered office. Fixed assets of the issuer must be re-valued as regularly as possible but in any case at least once in ten years.

**CO.C.00 Notifications relating to capital**

- C.01 An issuer must make a public announcement and notify the securities exchange and the Authority of the following information relating to its capital:

**(a) alterations to capital structure**

Any proposed change in its capital structure including the structure of its debt securities.

**(b) new issues of debt securities**

Where a company has debt securities, any new issues of debt securities, and in particular any guarantee or security in respect thereof.

**(c) changes of rights attaching to securities**

Any change(s), 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.

**(d) basis of allotment**

The basis of allotment of securities offered generally to the public for cash and open offers to shareholders.

**(e) issues affecting conversion rights**

The effect, if any, of any issue of further securities on the terms of the exercise of rights under options, warrants and convertible securities.

**(f) results of new issues**

The results of any new issue of securities or of a public offering of existing securities.

**CO.D.00 Shareholding**

D.01 An issuer shall at the end of each calendar quarter, disclose to the securities exchange every person who holds or acquires 3% or more of the issuer's ordinary shares, and shall publish in its annual report the following information on the its shareholding:-

(a) distribution of shareholders –

<b><u>Shareholding</u></b> <b><u>(No. of shares)</u></b>	<b><u>No. of</u></b> <b><u>shareholders</u></b>	<b><u>No. of</u></b> <b><u>shares held</u></b>	<b><u>%</u></b> <b><u>shareholding</u></b>
---	--	---	---

less than 500  
500 – 5,000  
5,001 - 10,000  
10,001 - 100,000  
100,001 - 1,000,000  
above 1,000,000

- (b) 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;
- (c) 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 (a) above;
- (d) name and address of the company secretary;
- (e) address and telephone number of the registered office; and
- (f) address of each office at which register of securities is kept.

D.02 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.

D.03 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.

**CO.E.00 Communication with shareholders**

E.01 Any meeting of shareholders (other than an adjourned meeting) shall be called by a twenty-one day notice in writing. All notices convening meetings shall specify the place, date, hour and agenda of the meeting. 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.

E.02 An issuer shall ensure that at least in each securities exchange in which its securities are listed all the necessary facilities and information are available to enable holders of such securities exercise their rights. In particular it shall:

- (a) inform holders of securities of the holding of meetings which they are entitled to attend;
- (b) enable them to exercise their right to vote, where applicable; and
- (c) publish notices or distribute circulars giving information on -
  - (i) the allocation and payment of dividends and interest;
  - (ii) the issue of new securities, including arrangements for the allotment, subscription, renunciation, conversion or exchange of the securities; and
  - (iii) redemption or repayment of the securities.

E.03 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.

E.04 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.

E.05 The issuer must forward to the Authority and securities exchange copies of:

- (a) all circulars, notices, reports, announcements or other documents at the same time as they are issued; and
- (b) all resolutions passed by the issuer at any general meeting of holders of listed securities **within ten days** after the relevant the general meeting.

#### **CO.F.00 Audit committee and corporate governance**

F.01 Every issuer shall establish an audit committee and comply with guidelines on corporate governance issued by the Authority.

F.02 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.

F.03 Every person save a corporate director who is a director of a listed company shall not hold such position in more than five listed companies at any one time to ensure effective participation in the board and in the case where the corporate director has appointed an alternate director, the appointment of such alternate shall be restricted to three listed companies; Provided that the listed company whose directors hold more than the prescribed limit shall

ensure compliance within six months of Gazettement of these Regulations.

F.04 Every person who is a Chairman of a listed company shall not hold such position in more than two listed companies at any one time, in order to ensure effective participation in the board; Provided that the listed company whose Chairman holds more than the prescribed limit shall ensure compliance within six months of Gazettement of these Regulations.

F.05 The chief financial officers and persons heading the accounting department of every issuer shall be members of the Institute of Certified Public Accountants established under the Accountants Act.  
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F.06 Where the persons referred to in F.05 are members of other internationally recognized professional bodies and are yet to register as members of the Institute of Certified Public Accountants such persons shall register as members of the institute within a period of twelve months from the date of Gazettement of these Regulations, or from the date of appointment to such position, whichever is later.

F.07 The company secretary of every issuer shall be a member of the Institute of Certified Public Secretaries of Kenya established under the Certified Public Secretaries of Kenya Act.  
Cap. 534

F.08 Every issuer shall disclose in its annual reports a statement of the directors as to whether the issuer is complying with the guidelines on corporate governance issued by the Authority:

Provided that where the issuer is not fully compliant with the guidelines, the directors shall indicate the steps being taken to adhere to full compliance.

F.09 The auditor of a listed company shall be a member of the Institute of Certified Public Accountants and shall comply with the International Standards of Auditing.

#### **CO.G.00 Miscellaneous obligations**

G.01 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.

G.02 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.

- G.03 An issuer must ensure that appropriate transfer and registration arrangements for its listed securities have been made and holders of the listed securities notified.
- G.04 All directors of an issuer, other than the managing director must retire by rotation at least once in every three years. At least one third of the directors shall be appointed as non-executive directors.
- G.05 (1) An issuer shall disclose all material information and make a public announcement of:
- (a) 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;
  - (b) any change in the directors, company secretary or auditors of the issuer;
  - (c) any proposed significant alteration of the memorandum and articles of association of the issuer;
  - (d) any application filed in a court of competent jurisdiction to wind up the issuer or any of its subsidiaries. Details of the suit and the probable outcome of the suit must be confidentially submitted to the Authority and the securities exchange; and
  - (e) the appointment or imminent appointment of receiver manager or liquidator of the issuer or any of its subsidiaries; and
  - (f) any profit warning, where there is a material discrepancy between the projected earnings for the current financial year and the level of earnings in the previous financial year.
- (2) For the purposes of subparagraph (1)(f), the expression “material discrepancy” in relation to projected earnings for a financial year means that such earnings are at least 25% lower than the level of earnings in the previous financial year.
- (3) Unless otherwise stated, all public announcements which an issuer is required to make under these Regulations shall be made within twenty four hours of the happening of the event.
- G.06 An issuer shall obtain approval of shareholders and make a disclosure in the annual report, for any:-
- (a) acquisition of shares of another company or any transaction resulting in such other company becoming a subsidiary or related company of the issuer;

- (b) sale of shares in another company resulting in that company ceasing to be a subsidiary of the issuer; or
- (c) substantial sale of assets involving 25% or more of the value of the total assets of the issuer.

and shall make a public announcement of the fact.

G.07 Where any agreement has been entered into in connection with any acquisition or realisation of assets or any transaction outside the ordinary course of business of the issuer and/or its subsidiaries, a copy each of the relevant agreement must be lodged with the Authority and securities exchange and be made available for inspection at the issuer's registered office.

# ***PART VI***

## **SCHEDULES AND FORMS**

*This part provides guidelines with respect to continuous listing obligations:*

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- 1. The application for admission of securities to the official list.*
- 2. Application for listing of securities resulting from rights, capitalisation or scrip dividend issue.*
- 3. Requirements for certificates of title.*
- 4. Memorandum of listing/ Requirements of Articles of Association*
- 5. Declaration by sponsoring stockbroker.*
- 6. Documents to be submitted to the Committee.*
- 7. Fees.*
- 8. Penalties.*

## SCHEDULE 1

### 1. The Application For Admission Of Securities To The Official List

#### 1.1 The application should contain the following:

- (i) a statement that:

“It is understood that the granting of a listing pursuant to this application shall constitute a contract between this issuer and the Nairobi Stock Exchange (“NSE”) and that in giving the General Undertaking referred to in the Memorandum of Listing”.

- (ii) full name of the issuer;

- (iii) the address of the registered office in Kenya;

- (iv) regarding the issuer’s share capital:

- (a) the amount of the authorised share capital of each class of share, and the nominal value and number of securities in each class;

- (b) the amount of the share capital issued and to be issued in conjunction with the application of each class of share, and the number of those securities in each class, also indicating clearly in respect of which securities listing is applied for; and

- (c) the nominal amount and number of securities in each class of the authorised but unissued capital of the issuer;

- (v) the nominal amount and number of securities of each class:

- (a) offered to the public for subscription (either by the issuer or otherwise), and the date the offer was made;

- (b) the number of securities of each class applied for, and the date the offer closed (where this information is available at the date of application); and

- (c) the number of securities of each class allotted, and the date of allotment (where this information is available at the date of application). If an issue is being made in conjunction with this application, the opening and closing dates of the offer, the date of allotment and the date of issue of the certificates of title to be stated;

- (vi) that monies in respect of excess applications will be refunded [within five days](#) of the allotment date if applicable;

- (viii) a statement as to the market segment of the Official List in which listing is applied for, and the abbreviated name of the issuer. Such abbreviated name shall not exceed 7 characters, inclusive of spaces; and

- 1.2 The application shall be signed by the secretary and a director of the issuer and the sponsoring stockbroker.
- 1.3 The application shall be accompanied by a resolution of the directors of the issuer authorising the application for admission to listing together with the relevant listing fee.

**2. The following sets out the timetable for offers for sale or subscription, subject to the Act.**

<b>EVENT</b>	<b>NUMBER OF DAYS</b>	<b>Maximum Number of Days</b>
Offer Period	Not less than 10 working days	10 Days
Announcement of basis of allotment	Not more than 7 days after the closing date of the offer	7 days
Allotment	Within 7 days of the announcement allotment	7 days
Dispatch of share certificates or statements of accounts and refund monies to unsuccessful applicants	From 3 days of the allotment.	
Commencement of trading	7 days from dispatch	

## **SCHEDULE 2**

### **Application for additional listing**

#### **1. INTRODUCTION**

The issuer shall meet all requirements for a Rights, Capitalization and Scrip Dividend Issue as prescribed by the Authority and provided in the Fourth Schedule under Part V of these rules.

Disclosure shall be sufficient to enable the shareholders and especially minorities to make an informed decision.

#### **2. ADDITIONAL COMPLIANCE ISSUES:**

##### **i) Availability of documents for inspection**

Documents relevant to the rights issue should be readily available for inspection by the shareholders and other interested parties.

These include the following documents:

- a) The Information Memorandum;
- b) Audited financial statements;
- c) Copy of the Board and shareholders' resolutions authorising the issue;
- d) Sample of the provisional letter of allotment;
- e) Copies of the Certificate of Incorporation and the Memorandum; and
- f) Any other document required for inspection by the Authority.

Copies of these should be made available to the public for inspection during working hours at the issuer's registered office and at the Exchange.

##### **ii) MISCELLANEOUS**

###### **a) Post rights matters**

On the date of the announcement giving the results of the rights offer, the issuer shall give the Exchange a detailed report on the results of the issue and the number of additional shares to be listed.

**b) Timetables**

**The following sequence of events is applicable to an issuer making a rights offer.**

**Event**

Announcement of intention to list. (This shall be no later than 24 hours after the Board Resolution)

Securities traded cum rights.

Application to the Authority and the Exchange for approval of the rights issue

Record Date of the Issue (This should be **not less than 21 days** after the application for approval)

Circular and/or pre-issue statement and letters of provisional allocation posted to shareholders registered for the rights issue.

An announcement giving the terms and salient dates of the rights issue

Last day for splitting provisional allotment letters

Last day for trading cum rights

Last date and time for acceptance and payment for new shares

Announcement giving the results of the rights offer

Documents of title posted or electronic records available at the Central Depository

Securities that are the subject of the rights issue listed (if granted).

**The following sequence of events is applicable to an issuer making a capitalisation issue:**

**Event**

Publication of announcement, inclusive of price calculation.

Securities traded cum entitlement.

Record date for participation in capitalisation issue.

Application for listing the maximum number of securities that could be issued, and other approvals

Securities traded ex-entitlement.

Securities allotted and listed.

Dispatch of entitlement to shareholders

Securities and listed Share Certificates posted or electronic records made available in the Central Depository

Securities that are the subject of the capitalization issue listed (if granted).

**The following sequence of events is applicable to an issuer making a scrip dividend:**

**Event**

Publication of announcement inclusive of pricing calculation.

Securities traded cum entitlement

Application and all other documentation submitted for approval by the committee

Announcement of Record date for participation in scrip dividend

Circular and/or pre-issue statement and letters of provisional allocation posted to shareholders registered for the scrip dividend

Securities traded ex-entitlement.

Announcement of results of scrip dividend

Securities allotted and listed

Dispatch of entitlement to shareholders

Securities and listed Share Certificates posted or electronic records made available in the Central Depository

Securities that are the subject of the scrip dividend listed (if granted).

## **SCHEDULE 3**

### **Requirements for certificates of title**

The following are the requirements for certificates of title:

#### **Name**

- 4.1 The name of the issuer should be clearly printed in bold. The name shall agree in every particular with that under which the issuer was registered. Abbreviations of words should not be used unless the name of the issuer is so registered, e.g. the word "AND" should be printed, and not the abbreviation "&" and the word "LIMITED" should be printed and not the abbreviation "LTD". Should the issuer be registered with either of these words abbreviated a note should be printed at the foot of the certificate of title to the effect that certificates of title accompanied by transfer deeds having the name of the issuer abbreviated "&" or the word "and" written in full will be accepted for transfer. A similar procedure should be adopted for any other abbreviations.

#### **Change of name**

- 4.2 The former name of the issuer shall be shown in brackets under the new name of the issuer for a period of at least one year after such change of name.

#### **Country of registration**

- 4.3 The country of registration shall be printed under the name of the issuer.

#### **Translation of name**

- 4.4 Should it be desired to show the translation of the name in another official language this may be shown under the name provided a statement is made on the certificate that the issuer will accept either name on transfer deeds.

#### **Certificate number**

- 4.5 The certificate of title number shall be shown on the top left-hand corner.

#### **Number of securities**

- 4.1 The number of securities represented in the certificate shall be shown on the top right-hand corner. In the case of units of stock the number of units and the nominal value shall be shown.

**Preference share certificates**

- 4.7 Certificates in respect of a first issue of preference shares shall be printed in red, including the border, if any. Certificates in respect of shares, other than a first issue of preference shares, may be printed in any other approved colour. Where preference shares of a new class are issued, second and subsequent issues of preference shares should be described as "Second Preference Shares", "Third Preference Shares" etc.

**Description of securities**

- 4.8 A full description of the class of securities, shall be printed in the body of the certificate; the description to be in accordance with that prescribed in the memorandum and articles of association. Where special rights and obligations pertain to the securities (as in the case of preference shares and debentures), salient details of these rights and conditions should be printed on the back of the certificate.

**Class of securities**

- 4.9 A description of the class of securities shall be printed in bold above the name of the issuer.

**Address of registered and transfer offices**

- 4.10 The physical and postal addresses in Kenya of the registered and transfer offices of the issuer shall be stated.

**Signatures on certificates of title**

- 4.11 The date and place of issue of the certificate shall be stated.

**Certificates cancelled by mutilation**

- 4.12 Certificates submitted shall be cancelled by mutilation by the issuer. (A rubber stamp, or statement in ink to the effect that the certificate has been cancelled, is not sufficient.)

**Specimens retained**

- 4.13 Specimen certificates of title submitted to the Exchange shall be retained by the Exchange.

## Schedule 4

### I. Memorandum Of Listing

We hereby apply for approval as a sponsoring stockbroker as defined in the Listing Manual of the Nairobi Stock Exchange (hereafter referred to as the 'listing rules'). In pursuance of this, we undertake to:

- (i) Discharge our responsibilities as a sponsoring stockbroker under the listing rules as amended from time to time;
- (ii) Advise the Exchange in writing, without delay, of our resignation or dismissal from appointment, giving details of any relevant facts or circumstances
- (iii) Provide a description of the interest held by the sponsoring stockbroker, the firm or any director of that firm in the issuer or its subsidiaries; and
- (iv) Acknowledge that the Exchange may censure us and publicise the censure and the reasons therefor if the Exchange considers that we are in breach of our responsibilities.

We declare that the information supplied is complete and correct and agree to comply with the requirements. We have ensured compliance with these rules and the eligibility and disclosure requirements prescribed by the Capital Markets Authority who have issued a letter of approval.

Signature

Name of signatory

Date

Position

Signature

Name of signatory

Date

Position

### II. Requirements for articles of association

Every issuer shall ensure that the articles of association (or other instrument constituting or defining the constitution of the issuer) ("the articles") has been forwarded to and approved by the Exchange and the Authority.

These documents shall be in English and shall comply with the requirements in respect of an issuer or in respect of any of the issuer's subsidiary companies whose securities are not sought to be separately listed.

The requirements laid down are not exhaustive. The Exchange will not allow any provisions contained in the articles which may in any way restrict free dealings in the securities or which may in the Exchange's opinion be unreasonable or which are unlawful.

## **Contents of articles of association – issuers**

### ***Preference securities***

- 3.1 If there are cumulative and/or non-cumulative preference shares in the capital of the issuer, the following right shall attach to such shares:

No further securities ranking in priority to or pari passu with the existing preference shares of any class shall be created or issued without the consent in writing of the holders of 75% of the existing preference shares of such class or the sanction of a resolution of the holders of such class of preference shares passed at a separate general meeting of such holders and at which members holding in the aggregate not less than 1/4 of the total votes of all the members holding securities in that class entitled to vote at that meeting are present in person or by proxy and the resolution has been passed by not less than 3/4 of the total votes to which the members of that class present in person or by proxy are entitled.

### ***Unissued securities***

- 3.2 Provision should be made in the articles that unissued equity securities shall be offered to existing shareholders pro rata to their shareholding unless issued for the acquisition of assets. Subject to the provisions of Capital Markets Act and the Regulations and Guidelines issued thereunder, the articles may however in addition to the above provide that the shareholders in general meeting may authorise the directors to issue unissued securities and/or give options to subscribe for unissued securities as the directors in their discretion may think fit.

### ***Calls on securities – external issuer***

- 3.3 Neither the directors nor the issuer are to be given power on the issue of securities to make any difference between the holders of the same class of share in the amount of calls to be paid and the time of payment of such calls or in any other respect whatever.
- 3.4 Any amount paid up in advance of calls on any share shall carry interest only and shall not entitle the holder of the share to participate in respect thereof in a dividend subsequently declared.
- 3.5 Provision should be made in the articles of an external issuer for the payment of calls at the branch office in Kenya.

### ***Lien upon securities***

- 3.6 The articles shall not give a issuer power to claim a lien on fully paid securities and the lien upon partly paid securities shall be limited to the amounts owing upon partly paid securities.

### ***Transfer of securities***

- 3.7 Provision shall be contained in the articles for the use of the common form of transfer.
- 3.8 There shall be no restriction on the transfer of securities.
- 3.9 The following provision shall be made in the articles:
- “Every instrument of transfer shall be left at the transfer office of the issuer at which it is presented for registration accompanied by the certificate of the securities to be transferred and or such other evidence as the issuer may require to prove the title of the transferor or his rights to transfer the securities. All

authorities to sign Transfer Deeds granted by members for the purpose of transferring securities which may be lodged, produced or exhibited with or to the issuer at any of its offices shall as between the issuer and the grantor of such authorities be taken and deemed to continue and remain in full force and effect and the issuer may allow the same to be acted upon until such time as express notice in writing of the revocation of the same shall have been given and lodged at the issuer's transfer offices at which the authority was lodged, produced or exhibited. Even after the giving and lodging of such notices the issuer shall be entitled to give effect to any instruments signed under the authority to sign and certified by any officer of the issuer as being in order before the giving and lodging of such notice."

***Transmission clause***

- 3.10 A provision to the effect that securities registered in the name of a deceased or insolvent shareholder shall be forfeited if the executor fails to register them in his own name or in the name of the heir etc., when called upon by the directors to do so shall not be permitted.

***Share warrants to bearer***

- 3.11 Provision should not be made for the issue of a new share warrant in place of one lost unless suitable documentation is provided to the satisfaction of the directors of the issuer concerned.

- 3.12 Where the memorandum prohibits the issue of share warrants and the articles make provision for the issue etc., thereof the following clause should be inserted in the articles.

"Notwithstanding the provisions contained in these articles with reference to the issue of share warrants the issuer is prohibited from issuing share warrants unless and until the objects of the issuer are altered to permit the issue of share warrants."

***Commission***

- 3.13 The articles should provide that, subject to the Act, the issuer may not pay commission exceeding the rates approved by Authority to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any securities of the issuer.

***Capital***

- 3.14 Power should be contained in the articles for:

- (i). increase of capital;
- (ii). consolidation of securities;
- (iii). conversion of securities into stock;
- (iv). sub-division of securities;
- (v). cancellation of securities;
- (vi). reduction of capital;
- (vii). conversion of securities into no par value and vice versa;
- (viii). conversion of ordinary shares into redeemable preference shares; and
- (ix). conversion of securities of any class into securities of any other class, whether issued or not.

- 3.15 Provision should be made that new securities created shall be offered to the existing shareholders pro rata to their shareholding or that new securities are only to be disposed of or dealt with as directed by a general meeting of shareholders. Subject to the listings requirements prescribed by the Capital Markets Authority, the articles may however in addition to the above provide that the shareholders in general meeting may authorise the directors to issue the new securities as the directors in their discretion may think fit.
- 3.16 The clause in the articles dealing with the reduction of capital should not provide that capital shall be repaid upon the basis that it may be called up again.
- 3.17 Provision should be made that in the case of any issue of a fraction of a security, that fraction may be sold for the benefit of the shareholder in such manner as the directors may determine.

#### ***Notice of meeting***

- 3.18 In the articles of a foreign issuer provision should be made that if the notice be given by surface mail **at least 30 days** notice of a meeting shall be given to all shareholders entitled to notice if such notice is sent from the registered office of the issuer and **at least 21 days** notice if the notice is sent from a branch office in Kenya or by air mail from the registered office of the issuer.
- 3.19 In the articles of all companies provision should be made for sending notices of meetings to the Exchange at the same time as notices are sent to shareholders.

#### ***General meetings***

- 3.20 The business of a general meeting shall include power to sanction or declare dividends.
- 3.21 The quorum at a general meeting shall be at least three members entitled to attend and vote and shall carry a minimum voting right of 50% of the total shareholders vote..

#### ***Voting at general meetings***

- 3.22 In the case of an foreign issuer the articles should make provision for depositing proxies at the branch office in Kenya.

#### ***Directors***

- 3.23 The articles of association shall provide that the minimum number of directors shall be five.
- 3.24 The articles should provide that the appointment of a director to fill a casual vacancy or as an addition to the board and shall be confirmed at the next annual general meeting.
- 3.25 The articles should provide that if the number of directors falls below the minimum provided in the articles the remaining directors shall only be permitted to act for the purpose of filling vacancies or calling general meetings of shareholders.
- 3.26 If the articles contain a provision that directors may be employed in any other capacity in the issuer or as a director or employee of a issuer controlled by or subsidiary to the issuer a further provision should be made to the effect that his appointment and remuneration in respect of such other office shall be determined by a disinterested quorum of directors.
- 3.27 The articles should provide that the directors shall be paid all their travelling and other expenses properly and necessarily incurred by them in and about the business of the issuer, and in attending meetings of the

directors or of committees thereof, and that if any director shall be required to perform extra services or to go to reside abroad or otherwise shall be specifically occupied about the issuer's business, he shall be entitled to receive a remuneration to be fixed by a disinterested quorum of directors which may be either in addition to or in substitution for any other remuneration.

- 3.28 In a new issuer all the directors are to retire at the first annual general meeting and at each annual general meeting of the issuer one-third of the directors, or if their number is not a multiple of three, then the number nearest to but not less than one-third, shall retire from office. In the case of an existing issuer at least one third of the directors shall retire at each annual general meeting. The aforesaid provisions are however, subject to the proviso that if a director is appointed a managing director or as an employee of the issuer in any other capacity the contract under which he is appointed may provide that he shall not, while he continues to hold that position or office under contract for a term of rotation be subject to retirement by such contract and he shall not in such case be taken into account in determining the rotation of retirement of directors provided that less than half of the directors may be appointed to any such position on the condition that they shall not be subject to retirement by rotation.
- 3.29 The period to be allowed before the date of an annual general meeting for the nomination of a new director shall be such as to give sufficient time after the receipt of the notice of the holding of the meeting for nominations to reach the issuer's office from any part of Kenya.
- 3.30 The directors shall be entitled to elect a chairman and in the absence of the chairman the directors shall elect one of those present as deputy chairman and determine the period for which they shall hold office. A resolution signed by directors (or their alternates, if applicable) who are present at the time when the resolution in question is signed by the first of such directors, in Kenya, whose number is a majority of the directors for the time being in office and not less than a quorum for a meeting of directors, inserted in the minute book, shall be as valid and effective as if it had been passed at a meeting of directors. Any such resolution may consist of several documents, each of which may be signed by one or more directors (or their alternates, if applicable) and shall be deemed to have been passed on the date on which it was signed by the last director who signed it unless a statement to the contrary is made in that resolution).

### **Dividends**

- 3.31 The articles should provide that the issuer in general meeting or the directors may declare dividends. However, the issuer in general meeting should not be able to declare a larger dividend than that recommended by the directors.
- 3.32 It should be noted that dividends are to be payable to shareholders registered as at a date subsequent to the date of declaration or date of confirmation of the dividend whichever is the later. A period of **14 days** at least should be allowed between the date of declaration or date of confirmation of the dividend whichever is the later, and the date of the closing of the transfer registers in respect of such dividend.
- 3.33 A provision to the effect that dividends which remain unclaimed for 3 years may become the property of the issuer will be permitted unless otherwise prescribed under the Capital Markets Act. Monies other than dividends due to shareholders shall be held in trust by the issuer indefinitely until lawfully claimed by the shareholder.

- 3.34 The articles of an external issuer may provide that the directors may retain any dividend or bonus upon which the issuer has a lien and may deduct from dividends or bonus all claims or sums of money which may be due on account of calls.

#### ***Annual financial statements***

- 3.35 Provision should be made in the articles of a issuer incorporated in Kenya, for a copy of the annual financial statements to be sent to shareholders **at least 21 days** before the date of the meeting at which it will be considered.
- 3.36 In the articles of an foreign issuer provision should be made that a copy of the balance sheet will be sent to all shareholders **at least 30 days** before the date of the meeting at which it will be considered if sent by surface mail from the registered office of the foreign issuer and **at least 21 days** before that date if sent from a branch office in Kenya or by airmail from the registered office.

#### ***Notices***

- 3.37 Notices are to be sent to all registered members. Notices to the holders of share warrants unless the conditions of issue provide that such holders are to receive notices shall be given by advertisement in Nairobi and in the town or district where the registered office of the issuer is situated, if such registered office is situated outside Nairobi, in a daily English newspaper. The articles should provide accordingly.

#### ***Members registered address***

- 3.38 A clause in the articles to the effect that members shall register an address in Kenya or in some other country will be permitted.
- 3.39 In the articles of an foreign issuer a provision that members are to register an address in the foreign country only will not be permitted.

#### ***Advertisement of notices***

- 3.40 In addition to the notice to be sent to all registered shareholders a provision that notice by advertisement shall be published in Nairobi and in the town or district where the registered office of the issuer is situated, if such registered office is situated outside Nairobi, in English and in one other official language in a daily newspaper will be permitted.

#### **Content of articles of association – (subsidiary companies)**

##### ***Unissued securities***

- 3.41 Provision shall be made in the articles that unissued securities shall be offered to existing shareholders pro-rata to their shareholding, unless issued for the acquisition of assets. The articles may, however, in addition to the above, provide that the shareholders in general meeting may authorise the directors to issue unissued securities and give options to subscribe for unissued securities as the directors in their discretion may think fit, provided this has been approved by the Authority.

### ***Calls on securities – foreign issuer***

- 3.42 Neither the directors nor the issuer are to be given power on the issue of securities to make any difference between the holders of the same class of share in the amount of calls to be paid and the time of payment of such calls.

### ***Lien upon securities – foreign issuer***

- 3.43 The articles shall not give a issuer power to claim a lien on fully paid securities and the lien upon partly paid securities shall be limited to amounts owing upon partly paid securities.

### ***Transfer of securities***

- 3.44 Provision shall be contained in the articles for the use of the common form of transfer.
- 3.45 The following provision shall be made in the articles:
- (a) Pursuant to and subject to the Central Depositories Act, 2000, title to immobilised and dematerialised shares will be evidenced otherwise than by a certificate and title to such shares shall be transferred by means of a book-entry transfer in accordance with the provisions of the Central Depositories Act, 2000.
  - (b) No provision of these Articles shall apply or have effect in relation to any shares which have been immobilised or dematerialised under the Central Depositories Act, 2000 to the extent that it is inconsistent in any respect with:
    - (i) the holding of such shares in uncertificated form;
    - (ii) the transfer of title to such shares by means of a book-entry transfer; and
    - (iii) any provision of the Central Depositories Act, 2000 .
  - (c) Transfers of Securities which have been immobilised or dematerialised under the Central Depositories Act, 2000 shall be effected in the manner prescribed thereunder.
  - (d) Where the Company refuses to register transfers of Securities required to be registered under sections 14 and 15 of the Central Depositories Act, 2000, it shall serve the transferor and transferee with written notice of the reasons for such refusal in accordance with section 14(5) of the Central Depositories Act, 2000.
  - (e) An instrument of transfer lodged with the Company pursuant to section 14(1) of the Central Depositories Act, 2000. shall be capable of registration in the name of a central depository or its nominee company if such instrument has been certified by a central depository agent instead of being executed by the central depository or its nominee company.
  - (f) With effect from the Dematerialisation Date, any reference to a transfer of shares or debentures shall be a reference to a book-entry transfer performed by a central depository in accordance with section 27(1)(b) of the Central Depositories Act, 2000.
  - (g) Any provisions in the articles inconsistent with the requirements of the Central Depositories Act, 2000 or as prescribed by the Authority under Regulations in respect of registration, transfer, immobilisation or dematerialisation of securities shall be deemed to be modified to the extent of such inconsistency in their application to securities which are in part or in whole immobilised or dematerialised or are required by the Central Depositories Act, 2000 or Regulations and Rules issued thereunder to be immobilised or dematerialised in part or whole as the case may be.

### ***Transmission clause***

- 3.46 A provision to the effect that securities registered in the name of a deceased or insolvent shareholder shall be forfeited if the executor fails to register them in his own name or in the name of the heir etc., when called upon by the directors to do so will not be permitted.

### ***Share warrants to bearer***

- 3.47 Provision should not be made for the issue of a new share warrant in place of one lost unless suitable documentation is provided to the satisfaction of the issuer concerned.

- 3.48 Where the memorandum prohibits the issue of share warrants and the articles make provision for the issue etc., thereof the following clause should be inserted in the articles:

“Notwithstanding the provisions contained in these articles with reference to the issue of share warrants the issuer is prohibited from issuing share warrants unless and until the objects of the issuer are altered to permit the issue of share warrants.”

### ***Capital***

- 3.49 Provision should be made that new securities created shall be offered to existing shareholders pro rata to their shareholding or that new securities are only to be disposed of or dealt with as directed by a general meeting of shareholders. The articles may, however, in addition to the above provide that the shareholders in general meeting may authorise the directors to dispose of the new securities as the directors in their discretion may think fit, subject to the requirements of the Authority as prescribed under the Capital Markets Act.

### ***Borrowing powers***

- 3.50 That the directors may, from time to time at their discretion raise or borrow or secure the payment of any sum or sums of money for the purposes of the issuer, provided that the total amount owing by the issuer in respect of monies so raised, borrowed or secured shall not exceed the amount authorised by its listed holding issuer.

### ***Quorum at general meetings***

- 3.51 The articles shall provide that a quorum at a general meeting and at an adjourned or postponed meeting shall be at least two members, present in person or by proxy, of whom one member shall be the representative of the holding issuer, or if a issuer is a wholly owned subsidiary the representative of the holding issuer shall suffice.

### ***Directors***

- 3.52 The articles should provide that the appointment of a director to fill a casual vacancy or as an addition to the board shall be confirmed at the next annual general meeting.

- 3.53 The articles should provide that if the number of directors falls below the minimum provided in the articles, the remaining directors shall only be permitted to act for the purpose of filling vacancies or calling general meetings of shareholders.

- 3.54 If the articles contain a provision that a director may be employed in any other capacity in the issuer or as a director or employee of a controlled or subsidiary issuer, a further provision should be made to the effect that his appointment and remuneration in respect of such other office shall be determined by a disinterested quorum.
- 3.55 The period to be allowed before the date of an annual general meeting for the nomination of a new director shall be such as to give sufficient time after the receipt of the notice of the holding of the meeting for nominations to reach the issuer's office from any part of Kenya.
- 3.56 If the quorum of directors is two the chairman shall not be permitted to have a casting vote if only two directors are present at a meeting of directors.
- 3.57 The directors shall be entitled to elect a chairman and deputy chairman and determine the period for which they shall hold office.
- 3.58 A resolution signed by directors (or their alternates, if applicable) who are present at the time when the resolution in question is signed by the first of such directors, in Kenya, whose number is a majority of the directors for the time being in office and not less than a quorum for a meeting of directors, inserted in the minute book, shall be as valid and effective as if it had been passed at a meeting of directors. Any such resolution may consist of several documents, each of which may be signed by one or more directors (or their alternates, if applicable) and shall be deemed to have been passed on the date on which it was signed by the last director who signed it (unless a statement to the contrary is made in that resolution).
- 3.59 Life directorships are not permissible.

#### ***Dividends***

- 3.60 The articles should provide that the issuer in general meeting or the directors may declare dividends. However, the issuer in general meeting should not be able to declare a larger dividend than that declared by the directors.
- 3.61 A provision to the effect that dividends which remain unclaimed for 3 years may become the property of the issuer will be permitted. Monies other than dividends due to shareholders shall be held in trust by the issuer indefinitely until lawfully claimed by the shareholder.
- 3.62 The articles of an external issuer may provide that the directors may retain any dividend or bonus upon which the issuer has a lien and may deduct from dividends or bonus all claims or sums of money which may be due on account of calls.

#### ***Notices***

- 3.63 Notices are to be sent to all registered members. Notices to the holders of share warrants unless the conditions of issue provide that such holders are to receive notices, shall be given by advertising in Nairobi and in the town or district where the registered office of the issuer is situated, if such registered office is situated outside Nairobi, in a daily newspaper in English and one other official language. The articles should provide accordingly.

**Members' registered addresses**

3.64 A clause in the articles to the effect that members shall register an address in Kenya or in some other country will be permitted.

**SCHEDULE 5**

**Declaration by sponsoring stockbroker**

To: Nairobi Stock Exchange

Date .....

Full name of sponsoring stockbroker

The undersigned request that you will allow ..... (number) shares of ..... (denomination) each of ..... (name of issuer) to be admitted to the Official List.

I, ..... a director of the above sponsor hereby confirm that I have satisfied myself to the best of my knowledge and belief, having made due and careful enquiry of the issuer and its advisers, that all the documents required by the Listing rules to be included in the application for listing have been supplied to the Nairobi Stock Exchange, that all other relevant conditions of the listing have been complied with; and that there are no matters other than those disclosed in the application for listing or otherwise in writing to the Exchange which should be taken into account by the Exchange in considering the application for admission of the securities for which application is being made. I further undertake to inform the Exchange of any additional information that may come to my notice before the admission to listing. The securities in respect of which the application is being made will be included in the ..... section of the List.

This declaration is furnished to you in accordance with the listings rules of the Nairobi Stock Exchange. It may not be relied upon for any other purposes or by any other person.

SIGNED BY

director of .....

For Official Use

Application to be heard on: .....

Dealings expected to commence on: .....

Name(s) of contact(s) at the  
Sponsoring stockbroker regarding the  
application:.....

Telephone number:.....

## SCHEDULE 6

### DOCUMENTS TO BE SUBMITTED TO THE EXCHANGE

The following documents shall be submitted in support of an application for admission to listing:

- i. Application for listing
- ii. Authorizations
  - issuers Board resolution to list
  - Capital Markets Authority approval letter
  - Shareholders resolution
  - Letter of no objection from other exchanges where they are listed (if applicable).
- iii. Contracts entered into in connection with the issue.
  - (a) Underwriting agreements if any
  - (b) Contracts with registrars where applicable
- iv. Certificate of Incorporation of the issuer or any other incorporation document
- vi. Declaration by the sponsoring stockbroker in the form set out in the schedule.
- vii. Memorandum and Articles of Association of the issuer or any other constitutive documents
- viii. Approved prospectus / information memorandum by the Authority and copies of documents provided for inspection pursuant to the proposed issue.

Financial reports for the prescribed period.

- x. Shareholdings and certificate of distribution in the form set out in the schedule
- xii. Management Contracts (if applicable)
- xiii. Specimen share certificate
- xiv. Memorandum of listing
- xv. Indebtedness
- xvi. Material Contracts available for inspection.

## SCHEDULE 7

### FEES

#### INITIAL AND ANNUAL LISTING FEES STRUCTURE

Use value of new issues and monthly average capitalization to November 30 to compute Annual Listing Fees

#### 1. INITIAL LISTING FEES

<b>MAIN INVESTMENT MARKET SEGMENT</b>	<b>ALTERNATIVE INVESTMENT MARKET SEGMENT</b>	<b>FIXED INCOME SECURITIES MARKET SEGMENT</b>
0.06% of the value of the securities to be listed subject to a minimum of Kshs 200,000 and a maximum of Kshs. 1,500,000.	0.06% of the value of the securities to be listed subject to a minimum of Kshs. 100,000 and a maximum of Kshs. 1,000,000.	0.0125% of the value of fixed income securities to be listed as follows: -  i) Corporate bonds and other fixed income securities - a minimum of Kshs. 100,000 and a maximum of Kshs. 1,000,000.  ii) Treasury Bonds and other Government securities – a minimum of Kshs. 100,000 and a maximum of Kshs. 500,000.

#### 2. ADDITIONAL LISTING FEES

<b>MAIN INVESTMENT MARKET SEGMENT</b>	<b>ALTERNATIVE INVESTMENT MARKET SEGMENT</b>
0.1% of the nominal value of the additional securities to be listed subject to a minimum of Kshs. 50,000 and a maximum of Kshs. 500,000.	0.1% of the nominal value of the additional securities to be listed subject to a minimum of Kshs. 25,000 and a maximum of Kshs. 250,000.

The annual listing fee shall be payable upon the expiry of the twelve (12) month period following the initial listing fee. Where the period for which the first annual listing fee payable is less than twelve (12) months, the annual listing fee shall be prorated to December of that year.

### **3. ANNUAL LISTING FEES**

Annual listing fees for companies whose shares are listed shall be based on daily average market capitalization from January 1 to November 30 annually excluding the value of new or additional listing during the year. The annual listing fees for Fixed Income Securities shall be based on the total value outstanding as on November 30.

<b>MAIN INVESTMENT MARKET SEGMENT</b>	<b>ALTERNATIVE INVESTMENT MARKET SEGMENT</b>	<b>FIXED INCOME SECURITIES MARKET SEGMENT</b>
0.06% of the market capitalization of the listed securities subject to a minimum of Kshs 200,000 and a maximum of Kshs. 1,500,000.	0.06% of the market capitalization of the listed securities subject to a minimum of Kshs. 100,000 and a maximum of Kshs. 1,000,000.	0.0125% of the market value of the fixed income securities outstanding listed as follows:-  i) Corporate bonds and other fixed income securities - a minimum of Kshs. 100,000 and a maximum of Kshs. 1,000,000.  ii) Treasury Bonds and other Government securities – a minimum of Kshs. 100,000 and a maximum of Kshs. 2,500,000.

#### **NOTES**

1. For purposes of computation, the due date in respect of bonus issues is the date the shares are quoted ex-bonus.
2. Computation of fees is based on the market price and the issuer's issued capital, save for new issues where it is based on the issue price.

## SCHEDULE 8

### PENALTIES

The sanctions and penalties outlined hereunder are progressive and are applicable to issuers and members. All monies paid as penalties shall go to the Nairobi Stock Exchange Investor Compensation Fund. All penalties charged by the Exchange shall be reported to the Authority [within 7 days](#) of imposing penalty.

For purposes of this schedule, 'days' refers to calendar days.

#### 1. PENALTY CHARGES ON LISTED COMPANIES

##### Offence

##### (i) Late Submission of Audited Annual Accounts

##### Nature of penalty

- A letter notifying the issuer of non-compliance with submission of audited accounts [within 5 days](#) after the due date.
- Letter of censure informing the issuer of being in contravention of Listing rules sent 15 days after due date.
- The Exchange shall make a public announcement of issuers that have not submitted or published audited accounts within 30 days from the due date.
- A penalty of Kshs 50,000 shall be payable by every issuer that fails to comply within 30 days from the due date and thereafter the penalty shall accrue at the rate of Kshs 2,000 per day for a maximum of 30 days following which the Authority shall intervene.
- *The Exchange can thereafter suspend the issuer as provided in this Manual.*

##### (ii) Late Submission of Semi-Annual Accounts

- A letter notifying the issuer of non-compliance within 5 days after due date.
- Letter of censure informing the issuer of being in contravention of Listing rules sent 15 days after due date.
- The Exchange shall make a public announcement of issuers that have not submitted or published audited accounts within 30 days from the due date.

**(iii) Late notification of material information or disclosures**

- A penalty of Kshs 10,000 shall be payable by every issuer that fails to comply within 30 days from the due date and thereafter the penalty shall accrue at the rate of Kshs 1,000 per day.
- *The Exchange can thereafter suspend the issuer as provided in the Listing rules.*
- Where an issuer has failed to make immediate public disclosure of information that may reasonably be expected to have material effect on market activity in and prices of its securities, within 24 hours of the event, the Exchange shall issue a letter of censure to the defaulting issuer requiring the issuer to make such an announcement.
- Where more than 7 days lapse between the occurrence of the event and the date of the announcement, the defaulting issuer shall be liable to a fine of Kshs. 10,000 and thereafter the fine shall accrue at the rate of Kshs 1,000 per day until the public announcement.
- Where the issuer fails to make a public announcement within 10 days of the event, the Exchange in consultation with the Authority may suspend trading of securities of the issuer for a period considered appropriate and restoration to trading of such securities shall be subject to a fine of Kshs 25,000.