



LEGAL NOTICE No. 50

**THE PROVISIONAL COLLECTION OF TAXES AND
DUTIES ACT
(Cap. 415)**

**THE PROVISIONAL COLLECTION OF TAXES AND
DUTIES ORDER, 2012**

WHEREAS a Bill entitled “An Act of Parliament to amend the law relating to various taxes and duties and for matters incidental thereto”, the short title of which is “The Finance Bill, 2012”, has been published in the Gazette on the 14th June, 2012:

NOW THEREFORE, in exercise of the powers conferred by section 2 of the Provisional Collection of Taxes and Duties Act, the Minister for Finance orders that all the provisions of the Bill relating to taxes or duties shall have effect as though the Bill were passed into law.

This Order shall come into effect on the 15th June, 2012.

Dated the 14th June, 2012.

ROBINSON GITHAE,
Minister for Finance.

LEGAL NOTICE NO. 51

THE CUSTOMS AND EXCISE ACT*(Cap. 472)*

IN EXERCISE of the powers conferred by section 234 of the Customs and Excise Act, the Minister for Finance makes the following Regulations—

**THE CUSTOMS AND EXCISE (DETERMINATION OF
RETAIL SELLING PRICE) REGULATIONS, 2012**

Citation. 1 These Regulations may be cited as the Customs and Excise (Determination of Retail Selling Price) Regulations, 2012.

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

“retail selling price” means the average retail selling price, determined in accordance with these regulations, for the purposes of levying *ad valorem* excise duty .

Retail price inclusive of taxes 3 For the purpose of these regulations, the retail selling price shall be the price inclusive of taxes.

Determination of retail selling price for locally manufactured goods 4 (1) The Commissioner shall, for the purpose of levying *ad valorem* excise duty on goods on which excise duty is chargeable on the basis of the retail selling price as specified in the Fifth Schedule to the Act, determine and publish in the *Gazette*, the retail selling price for the goods on quarterly basis.

(2) In order to determine the retail selling price of goods referred to in paragraph (1), the Commissioner shall sample the prices of the products on which the *ad valorem* excise duty is chargeable, on the basis of retail selling price, from the retail outlets through which the goods are most commonly sold and determine the average retail selling price.

(3) Where the goods are sold directly by the manufacturer to the consumer, the retail selling price shall be the price payable by the consumer in a transaction between independent persons dealing at arm's length.

(4) Where the goods have not been previously sold in the market, the Commissioner may require the manufacturer to declare the maximum retail selling price at which the goods are expected to be sold

(5) Where a manufacturer who is required to make a declaration under paragraph (4) delivers any goods to the market without declaring the retail selling price of such goods, the retail selling price of such goods shall be determined as follows-

- (a) where the manufacturer had removed similar goods from the excise stock room, within a period of one month, the retail selling price of the similar goods shall be deemed to be the retail selling price of the goods; or
- (b) where the retail selling price cannot be determined in accordance with subparagraph (a), the retail selling price of similar goods determined in accordance with paragraph 2 shall be deemed to be the retail selling price.

Provided that the highest retail selling price determined, under sub-paragraph (a) or sub-paragraph (b), shall be deemed to be the retail selling price of such goods.

(6) Notwithstanding paragraph (4), where the declared retail selling price is significantly lower than the retail selling price at which the product is sold in the market, then the retail selling price at which the product is sold shall be deemed to be the declared retail selling price.

Retail selling price for powdered beer

5 The retail selling price of powdered beer shall be the price of the beverage, ready for use, sold in a transaction between independent persons dealing at arm's length.

Late payment penalties and interest

6 Where additional assessment has arisen as a result of a change in the retail selling price in accordance with paragraph 4(5), late payment penalties and interest shall apply in accordance with provisions of the Act.

Request for information

7 For the purposes of determining the retail selling price, the Commissioner may require a manufacturer or any other person to

submit any information relating to the manufacturing and pricing of the goods.

Offence and
penalty

8 Any person who fails to make a declaration or provide information required under these regulations commits an offence and shall be liable on conviction to a fine not exceeding one million five hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.

Dated the 14th June, 2012

ROBINSON GITHAE,
Minister for Finance

LEGAL NOTICE NO 52

THE INCOME TAX ACT
(Cap. 470)

IN EXERCISE of the powers conferred by sections 12A (2) of the Income Tax Act, the Commissioner-General makes the following Regulations—

THE INCOME TAX (ADVANCE TAX) (CONDITIONS AND PROCEDURES) RULES, 2012

Citation

1. The Rules may be cited as Income Tax (Advance Tax)(Conditions and Procedures) Rules, 2012.

Interpretation

2. In these Rules, unless the context otherwise requires-

“advance tax” means tax payable under section 12A of this Act,

“owner of a commercial vehicle” means the registered owner as indicated in the registration certificate issued by the Registrar of motor vehicles

Payment of
advance tax

3. (1) Any person who owns a commercial vehicle shall be liable to pay advance tax

(2) Advance tax shall be payable for each year of income at the rates specified under paragraph 8 of the Third Schedule to the Act

(3) Advance tax shall be due and payable to the Commissioner on or before the twentieth day of the first month of the year of income, or in cases of transfer of ownership of the commercial vehicle, before the new owner is registered as such.

(4) The Commissioner shall assess the amount of advance tax payable under these Rules in accordance with paragraph 8 of the Third Schedule to the Act.

(5) A person liable to pay advance tax shall submit to the Commissioner the payment accompanied by the prescribed form.

(6) The Commissioner shall issue, to every person who pays advance tax under these Rules, a receipt which shall be the proof of payment of advance tax.

Maintenance of
records

4. Any person who is liable to pay advance tax shall keep records necessary for the determining and ascertaining advance tax, including registration certificates, vehicle inspection reports, previous advance tax receipts and such other document or record as the Commissioner may from time to time direct.

Filing of returns

5. (1) A person who pays advance tax shall submit to the Commissioner a return of income in accordance with section 52B of the Act.

(2) A person who fails to file a return of income in accordance with paragraph (1) shall be liable to pay additional tax as provided under section 72 of the Act

Licensing and
inspection

6. A Government agency shall for the purposes of the registration or transfer of ownership, licensing or inspection of a commercial vehicle, require the owner of the commercial vehicle to furnish such agency with evidence of payment of advance tax or income tax exemption certificate, where applicable

Dispute in
calculation of
advance

7. Any dispute arising from the administration of these Rules relating to the assessment to tax shall be dealt with in accordance with section 84 of the Act

Inspection of
records

8. (1) For purposes of obtaining information necessary for the verification of advance tax paid, the Commissioner may by notice require a person liable to pay advance tax to—

- (a) produce all accounts, books of accounts, documents and other records relating to the payment of advance tax in respect of such period as may be specified by the Commissioner;
- (b) produce the commercial vehicle or a Vehicle Inspection Report prepared by a recognized Government agency or agent, or
- (c) avail themselves for interview at such time and place as may be specified in the notice

(2) The Commissioner may, upon undertaking an inspection under this rule, demand from the person, based on the information obtained from the inspection—

- (a) the tax which appears from the documents and records produced by that person, would have been payable under rule 3 for the period covered by the inspection had that person complied with these Rules; or
- (b) the outstanding tax and penalties.

Penalties and
interest

9. (1) Any person who fails to pay the advance tax due shall, in addition to the payment of the unpaid tax, be liable to pay a penalty and interest on the unpaid tax in accordance with section 72D and section 94 of this Act respectively.

(2) The provisions of the Act that relate to collection and recovery of tax shall apply for the purposes of collection and recovery of unpaid advance tax.

Made on the 14th June, 2012.

JOHN NJIRAINI,
Commissioner-General

LEGAL NOTICE NO. 53

THE INCOME TAX ACT

(Cap. 470)

IN EXERCISE of the powers conferred by section 130 of the Income Tax Act, the Minister for Finance makes the following Rules-

**THE INCOME TAX (LOCAL COMMITTEE) (AMENDMENT)
RULES, 2012**

1. These Rules may be cited as the Income Tax (Local Committee) (Amendment) Rules, 2012

LN 7/1974

2. Rule 6 of the Income Tax (Local Committee) Rules, in these Rules referred to as "the principal Rules" is amended in paragraph (1) by deleting paragraph (d).

3. The principal Rules are amended by inserting the following new rule immediately after rule 7.

Response by
Commissioner

7A. (1) The Commissioner shall, within thirty days of being served with a memorandum and statement of facts in accordance rule 7 file a response, with the clerk, stating the facts upon which the response is based and specifying any documentary or other evidence that he proposes to adduce at the hearing of the appeal.

(2) The Commissioner shall, upon filing a response in accordance with paragraph (1), serve a copy of the response together with copies of any documents annexed thereto, upon the appellant.

(3) Where a local committee is satisfied that, the Commissioner was for any reasonable ground, unable to file the statement of facts with the clerk within the prescribed period, the local committee may extend the time within which the Commissioner shall file a response.

Made on the 14th June, 2012.

ROBINSON GITHAE,
Minister for Finance

LEGAL NOTICE NO 54

THE INCOME TAX ACT
(Cap. 470)

IN EXERCISE of the powers conferred by section 18(8) of the Income Tax Act, the Minister for Finance makes the following Rules—

THE INCOME TAX (TRANSFER PRICING) (AMENDMENT)
RULES 2012

1. These Rules may be cited as the Income Tax (Transfer Pricing) (Amendment) Rules 2012.

LN 67/1996

2. Rule 8 of the Income Tax (Transfer Pricing) Rules, 1996 is amended by inserting the following new paragraph immediately after paragraph (2)—

(3) The Commissioner may issue guidelines specifying conditions and procedures to guide the application of the methods set out in rule 7.

Made on the 14th June, 2012

ROBINSON GITHAE,
Minister for Finance

LEGAL NOTICE NO 55

THE RETIREMENT BENEFITS ACT
(No.3 of 1997)

IN EXERCISE of the powers conferred by section 55 of the Retirement Benefits Act, 1997, the Minister for Finance makes the following Regulations—

RETIREMENT BENEFITS (MORTGAGE LOANS)
(AMENDMENT) REGULATIONS, 2012

1. These Regulations may be cited as the Retirement Benefits (Mortgage Loans) (Amendment) Regulations, 2012.

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09. 2. Regulation 4 of the Retirement Benefits (Mortgage Loans) Regulations, 2009, in these Regulations referred to as “the principal Regulations” is amended by inserting the following new paragraph immediately after paragraph (3)

(4) A member of a scheme who has a mortgage existing prior to or after commencement of this subregulation, may upon formal application in the manner prescribed in the rules of the scheme, transfer the mortgage by way of assignment of benefits to an institution.

3. Regulation 7 of the principal Regulations is amended by deleting subparagraph (a) and substituting therefor the following new subparagraph—

(a) a first mortgage on a house in respect of which the loan is granted, or in the case of a rural house, where a first mortgage may not be secured, the guarantee shall be considered as the primary security acceptable to the institution;

4. Regulation 8 of the principal Regulations is amended in paragraph (1) by adding the following proviso—

Provided that the trustees may provide a guarantee to cover the initial transaction fees including purchase deposit, applicable duties and taxes, valuation and legal fees for the acquisition of the house.

5. Regulation 11 of the principal Regulations is amended in subregulation (1), by deleting the proviso and substituting therefor the following new proviso—

“Provided that—

- (i) upon presentation of evidence of default and liability arising to trustees by an institution, the guarantee shall be redeemable on demand in accordance with its terms; and
- (ii) in the event of default by a member arising on account of loss of employment, the trustees shall settle the outstanding mortgage with the institution if the outstanding loan is less or equal to the permitted guarantee under regulation 8(1).

Made on the 14th June, 2012

ROBINSON GITHAE,
Minister for Finance

LEGAL NOTICE NO 56

THE RETIREMENT BENEFITS ACT
(No.3 of 1997)

IN EXERCISE of the power conferred by sections 55 of the Retirement Benefits Act, the Minister for Finance makes the following Regulations—

THE RETIREMENT BENEFITS (INDIVIDUAL RETIREMENT BENEFITS SCHEMES) (AMENDMENT) REGULATIONS, 2012

1. These Regulations may be cited as the Retirement Benefits (Individual Retirement Benefits Schemes) (Amendment) Regulations, 2012

2. Regulation 9 of the Retirements Benefits (Individual Retirements Benefits Schemes) Regulations, 2000 is amended by inserting the following new paragraph immediately after paragraph (3)—

(4) Notwithstanding paragraph (3), a scheme shall not appoint a trust corporation whose ownership or directorship is related to that of its sponsor to be the trustee of the scheme.

LN 118/2000

Made on the 14th June, 2012.

ROBINSON GITHAE,
Minister for Finance

LEGAL NOTICE NO 57

THE INSURANCE ACT
(Cap.487)

IN EXERCISE of the powers conferred by section 180 of the Insurance Act, the Minister for Finance makes the following Regulations—

THE INSURANCE (AMENDMENT) REGULATIONS, 2012

1. These Regulations may be cited as the Insurance (Amendment) Regulations, 2012.
- Sub-Leg 2. Regulation 11 of the Insurance Regulations, in these Regulations referred to as “the principal Regulations” is amended in paragraph (1) by deleting subparagraph (c).
3. Regulation 17 of the principal Regulations is amended—
- (a) in paragraph (a), by deleting all the words appearing immediately after the word “auditor”;
 - (b) in paragraph (b)-
 - (i) by inserting the following new subparagraph immediately after subparagraph (vi)-
 - “(vii) statement of reinsurance premiums on long term business, Form No INS 59-9A”; and
 - (ii) by re-numbering subparagraphs (vii) (viii), (ix) and (x) as (viii), (ix), (x), and (xi) respectively.
4. Regulation 18 of the principal Regulations is amended—
- (a) in paragraph (a), by deleting all the words

appearing immediately after the word “auditor”; and

(b) in paragraph (b)(x), by deleting the word “reinsurance.”

5. Regulation 20 of the principal Regulations is amended in paragraph (1) by deleting the words “four” and “have printed thereupon.”

6. Regulation 21 of the principal Regulations is amended in paragraph (2) by deleting the word “six” and substituting therefor the word “four.”

7. Part X of the principal Regulations is amended in the heading—

(a) by inserting the words MEDICAL INSURANCE PROVIDERS” immediately after the words “INSURANCE SURVEYORS”; and

(b) by deleting the words “LOSS ASSESSORS” and substituting therefor the words “MOTOR ASSESSORS, INSURANCE INVESTIGATORS.”

8. Regulation 34 of the principal Regulations is amended—

(a) in paragraph (1)—

(i) by deleting the words “loss assessors” and substituting therefor the words “motor assessors, insurance investigators”; and

(ii) by inserting the words “medical insurance providers” immediately after the words “insurance surveyors ”

(b) in paragraph (2)—

(i) by deleting the words “loss assessors” and substituting therefor the words “motor assessors, insurance investigators”; and.

(ii) by inserting the words “medical insurance providers” immediately after the words “insurance surveyors.”

9. Regulation 35 of the principal Regulations is amended by inserting the words “or medical insurance provider” immediately after the word “broker”

10. Regulation 36 of the principal Regulations is amended—

(a) by inserting the words “medical insurance provider” immediately after the words “insurance surveyor”, and

(b) by deleting the words “loss assessor” and substituting therefor the words “motor assessor, insurance investigator.”

11. Regulation 37 of the principal Regulations is amended—

(a) by deleting the words “Loss assessor..... 3,000” and substituting therefor the words-

“Motor assessor3,000,
Insurance investigator3,000”; and

(b) by inserting the words “Medical insurance provider ... 10,000” immediately after the words “Insurance surveyor.”

12. Regulation 38 of the principal Regulations is amended by inserting the words “an insurance provider” immediately after the words “a broker.”

13. Regulation 40 of the principal Regulations is amended by deleting the words “under companies Act and every broker” and substituting therefor the words “as may be prescribed by the Authority, from time to time.”

14. The principal Regulation are amended by deleting Regulation 57 and substituting therefor the following new regulation-

.57. For the purposes of section 197E, the levy payable under section 197B shall be paid to the Insurance Training and Education Trust in such manner as may be prescribed by the Authority from time to time

15. The principal Regulation are amended by deleting regulation 58 and substituting therefor the following new regulation-

58 For the purpose of section 4(2), all monies payable into the Fund shall be paid to the Insurance Regulatory Authority in such manner as may be prescribed by the Authority from time to time.”

16. The Third Schedule of the principal Regulations is amended-

(a) in Part A-

(i) by inserting the following new class of business and sub-class of business immediately after item 12 -

Serial No	Class of business	Brief description and class	Serial No	Sub-class of business
13	Micro-Insurance	Micro	130	Micro-insurance

(ii) by re-numbering item 13 as item 14; and

(iii) by re-numbering items 130 as item 140, item 131 as item 141, and item 132 as item 142 respectively.

(b) in Part B-

(i) by inserting the following new item immediately after item 12-

13. *Micro-Insurance business* means the authorized insurance business that provides protection accessible to the low income

population, against specific perils in exchange for regular provision payments proportionate to that risk and managed in accordance with generally acceptable insurance principles.

(ii) by re-numbering item 12 as 13,

(c) in Part C, by deleting Form No. INS 54-3

17. The Tenth Schedule of the principal Regulations is amended by deleting Form No INS 70-3 and substituting therefor the following new Form-

FORM NO INS 70-3

**MAXIMUM PERMITTED EXPENDITURE: GENERAL
INSURANCE BUSINESS**

All amounts in Kenya Shillings

Name of Insurer

Year ended 31st December, 20

			KENYA BUSINES S	TOTAL BUSINESS
	Premiums (1)	Premiums Amount (2)	Premiums (3)	Permitted Amount (4)
1 Gross premiums income written direct				
2 Actual amount of commission or other remuneration paid to insurance agents and brokers on procurement of business in the year but not exceeding the limits prescribed in Regulation 21				
3 25% of first 5 million multiplied by CPI (n) factor of gross direct premium income				
4 22% of next 7.5 million multiplied by CPI (n) factor of gross direct premium income				
5 20% of next 7.5				

million multiplied by CPI (n) factor of gross direct premium income				
6. 17½% of next 10 million multiplied by CPI (n) factor of gross direct premium income				
7. 15% of the balance of gross premium income.				
8. Sub-Total (3)+(4)+(5)+(6)+(7)				
9. In the case of an insurer who has transacted general insurance business in Kenya for less than 6 years, 5% of such gross direct premium				

18. The Eleventh Schedule of the principal Regulations is amended in Part B-

(a) by inserting the following new class of business immediately after class 11 –

“12 Micro-Insurance10%;

(b) by deleting the expression “20%” in item 12 and substituting therefor the expression “10%”; and

(c) by re-numbering items 12 as 13 and 13 as 14 respectively.

19. The Twenty-Fifth Schedule of the principal Regulations is amended in Form No.INS 197E – 1 by deleting expression “1.5%” appearing immediately after item 12 and substituting therefor the expression “1%”.

20. The principal Regulation are amended by deleting Twenty-Ninth Schedule and substituting therefor the following new Schedule–

10	Theft insurance including burglary, cash in transit and fidelity guarantee																			
11	Workmen's compensation (i.e. classes of business not included under those listed above)																			
12	Medical																			
13	Miscellaneous insurance (i.e. classes of business not included under those listed above)																			
	Sub Total																			
	1% of (i) + (ii)																			
	Penalty for late payment (add)																			
	TOTAL																			

Made on the 14th June, 2012

ROBINSON GITHAE,
Minister for Finance

LEGAL NOTICE NO 58

THE INSURANCE ACT
(Cap. 487)

IN EXERCISE of the powers conferred by sections 23(2) of the Insurance Act, the Minister for Finance makes the following Order—

THE INSURANCE (AMENDMENT OF SCHEDULE) ORDER, 2012

1. This order may be cited as the Insurance (Amendment of Schedule) Order, 2012.

2. The Schedule to the Insurance Act is amended by inserting the following new item immediately after item (c) under the heading MINIMUM CAPITAL REQUIREMENTS as follows:

(d) in the case of a reinsurer, its paid up capital is at least eight hundred million shillings divided as follows:-

(i) for long term business, three million shillings;

(ii) for general business, five hundred million shillings.

3. This Order shall, in case of reinsurers registered prior to the 14th June 2012, apply with effect from the 14th June, 2014.

Made on the 14th June, 2012.

ROBINSON GITHAE,
Minister for Finance

LEGAL NOTICE NO 59

THE TRAFFIC ACT
(Cap.403)

IN EXERCISE of the powers conferred by section 119 of the Traffic Act, the Minister for Transport makes the following Rules—

THE TRAFFIC (VEHICLE LICENCES) (DURATION) RULES,
2012

1. These Rules may be cited as the Traffic (Vehicle Licences) (Duration) Rules, 2012.

2. (1) A licence in respect of any vehicle shall be taken out for a period of twelve months or for a period of four months pending the registration of the motor vehicle in the name of a new owner.

(2) The period of twelve months or four months, as the case may be, shall commence from the beginning of the month in which the licence first has effect

Made on the 14th June, 2012

AMOS KIMUNYA,
Minister for Transport

LEGAL NOTICE NO 60

THE KENYA REVENUE AUTHORITY ACT **(Cap.469)**

IN EXERCISE of the powers conferred by section 24A(2) of the Kenya Revenue Authority Act, the Minister for Finance makes the following Regulations—

THE KENYA REVENUE AUTHORITY (TAX AGENTS) REGULATIONS, 2012

Citation 1 These Regulations may be cited as the Kenya Revenue Authority (Tax Agents) Regulations, 2012.

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

“Tax Agents Committee” means the committee established under regulation 8.

“misconduct” includes, making false tax declarations, aiding and abetting tax evasion and any other conduct expressly prohibited by any other law relating to the collection of tax.

“practising certificate” means a certificate issued to a person by a recognized professional association which permits that person to practice that profession,

“tax agent” means a person registered by the Commissioner as a tax agent under regulation 3;

“registration certificate” means certificate issued by the Commissioner to a person authorising that person to be a tax agent.

Registration of
tax agent

3 (1) A person shall not operate as a tax agent unless the person has been registered by the Commissioner as a tax agent.

(2) A person who wishes to operate as a tax agent shall apply in writing to the Commissioner for registration as a tax agent.

(3) A person is qualified for registration as a tax agent if that person is—

No 15 of
2008

- (a) registered as an accountant in accordance with the Accountants Act, 2008 and a member of the Institute of Certified Public Accountants of Kenya; or
- (b) an advocate of the High Court of Kenya and holds a current practising certificate; or
- (c) a former tax administrator with at least ten years' experience in tax administration, or
- (d) a holder of any other relevant qualifications and experience recognized by the Commissioner as sufficient for a tax agent; and
- (e) tax compliant.

(4) Where the Commissioner is satisfied that a person is qualified for registration as a tax agent, the Commissioner shall issue a certificate of registration in the prescribed form.

(5) These Regulations shall not apply to a non-resident who is temporarily in Kenya for the sole purpose of representing a client on tax matters.

(6) A person who operates as a tax agent without registration commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

4 A person shall cease to be a tax agent if that person—

Validity of
registration

- (a) is suspended or struck off from the register of his professional association;
- (b) is suspended or deregistered by the Commissioner in accordance with regulation 10; or
- (c) is declared bankrupt by a court of competent jurisdiction.

5 The functions of a tax agent shall be to—

Functions of
tax agents

- (a) prepare and submit tax returns on behalf of a taxpayer;
- (b) liaise with the Kenya Revenue Authority on behalf of a taxpayer on all matters relating to tax;
- (c) advise and represent a taxpayer in matters pertaining to tax before the Commissioner, a tribunal or a local committee established under any of the laws set out in the First Schedule to the Act; or
- (d) deal with any other matters that relate to tax on behalf of a tax payer.

6 (1) The Commissioner shall maintain a register of tax agents which shall contain—

Register to be
maintained
by the
Commissioner

- (a) the names of all the tax agents;

- (b) the qualifications of the tax agents;
- (c) the address of the principal place and any other place where the tax agents operate from; and
- (d) such other information as the Commissioner may consider necessary.

(2) A tax agent shall notify the Commissioner, of any change in the information in the register within fourteen days of such change.

Conduct of tax agent

7 (1) A tax agent shall conduct himself in a professional manner and provide quality service to his clients in order to enable the clients to comply with the requirements of any of the laws set out in the First Schedule to the Act.

(2) Without prejudice to the foregoing, a tax agent shall—

- (a) comply with any notice served on the tax agent by the Commissioner within the time specified in the notice;
- (b) maintain a register containing the following details—
 - (i) the names of all the clients;
 - (ii) the date of engagement by each client;
 - (iii) the full physical addresses, postal address and any other contact details of each client; and
 - (iv) information relating to the nature of business that each client is engaged in;
- (c) maintain proper records indicating—

- (i) the date when the last income tax return or specified notice was submitted to the Commissioner;
- (ii) the tax payable or paid; and
- (iii) such other particulars as the Commissioner may from time to time direct.

8 (1) The Minister shall, for the purpose of these Regulation establish a tax agent Committee which shall consider applications for registration of tax agents and investigate any allegations of misconduct made against tax agents.

Establishment
of the Tax
Agents
Committee

(2) The Committee shall comprise of—

- (a) a chairperson, who shall be from the private sector with at least ten years' experience and holds a degree in taxation, finance, accounting, or law from a university recognized in Kenya;
- (b) a representative of the Institute of Certified Public Accountant of Kenya;
- (c) a representative of the Law Society of Kenya;
- (d) three other persons who have at least five years experience and hold a degree in taxation, finance, accounting or law from a university recognized in Kenya;
- (e) a representative of the Commissioner, who shall be the secretary to the Committee.

(3) The members of the Committee shall be appointed by the Commissioner in writing, and shall serve for a term of three years and shall be eligible for re-appointment for one further term of three years.

(4) The quorum for a meeting of the Committee shall be the chairperson and two members.

(5) The Chairperson shall preside at every meeting of the Committee, at which the chairperson is present, and in the absence of the Chairperson, the members present shall appoint one of their number to preside over the meeting.

(6) The members of the Committee shall be paid such remuneration as the Minister may determine from time to time.

Vacancy

9 The office of the chairperson or a member of the Committee shall become vacant if the holder—

(a) resigns by notice in writing, to the Commissioner;

(b) is convicted of any offence;

(c) is declared bankrupt by a court of competent jurisdiction;

(d) fails to meet his tax obligations, or

(e) fails to attend three consecutive meetings without notice to the chairperson.

Investigation
of allegations
of misconduct

10 (1) The Commissioner shall upon receiving any allegation of misconduct against a tax agent, refer the matter to the Committee to investigate the allegations and make the appropriate recommendations.

(2) Where the complaint is against a member of a recognized professional association, the Committee may refer the matter to the association for investigation and determination in accordance with the code of conduct of that association.

(3) The Committee may recommend that such action as it may consider necessary be taken on the tax agent in addition to the action taken by the association.

(4) Where the complaint is against a person who is not a member of a recognized professional association, the Committee shall give the tax agent an opportunity to be heard and permit the tax agent to inspect any relevant documents at least seven days before the date of the hearing.

(5) The Committee may in the course of the investigations hear such witnesses and receive such documentary evidence as may, in its opinion, assist in the investigations.

(6) The Committee shall, expeditiously, but not later than seven days after termination of the hearing, submit a report, to the Commissioner recommending that the Commissioner—

- (a) clears the tax agent of the allegations;
- (b) cautions, warns or reprimands the tax agent;
- (c) suspends the registration of the tax agent,
- (d) deregisters the tax agent, or;
- (e) takes such other action that it considers appropriate.

(2) The Commissioner shall, within fourteen days of receiving the report of the Committee, take such action as may be appropriate.

11 Any person who—

Offences.

- (a) fraudulently makes, or causes or permits to be made, any false or incorrect entry into the register maintained for the purposes of these Regulations, or any copy thereof;
- (b) fraudulently procures or attempts to procure, registration as a “tax agent”; or

- (c) knowingly and wilfully makes any statement which is false or which is misleading, with a view to gaining any advantage, concession or privilege under these Regulations; or
- (d) not being a registered tax agent falsely presents himself as such,

commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years or both.

Made on the 14th June, 2012.

ROBINSON GITHAE,
Minister for Finance

LEGAL NOTICE NO 61

THE CAPITAL MARKETS ACT
(Cap. 485A)

IN EXERCISE of the powers conferred by section 12 (1) of the Capital Markets Act, the Capital Markets Authority, makes the following Regulations-

THE CAPITAL MARKETS (SECURITIES) (PUBLIC OFFERS, LISTINGS AND DISCLOSURES) (AMENDMENT) REGULATIONS, 2012

1. These Regulations may be cited as the Capital Markets (Securities) (Public Offers, Listings and Disclosures) (Amendment) Regulations, 2012.

Sub-Leg.

2. Regulation 2 of the Capital Markets (Securities) (Public Offers, Listings and Disclosures) Regulations, 2002, in these Regulations referred to as “the principal Regulations” is amended by inserting the following new definitions in proper alphabetical sequence-

“Directors Induction Program” means a training programme, approved by the Securities Exchange in consultation with the Authority, covering issues relating to directors responsibility in listed entities including corporate governance, regulatory compliance and accountability;

“Nominated Advisor” means a registered person appointed to undertake the responsibilities set out under regulation 10A;

“listing statement” means an information document prepared in connection with a listing on the Growth Enterprise Market Segment and does not constitute an information memorandum or prospectus unless specifically provided;

“Growth Enterprise Market Segment” means a market segment where issues that satisfy the eligibility requirements prescribed under Regulation (7)(1)(c), are listed.

3. Regulation 3 of the principal Regulations is amended –

(a) by inserting the following new paragraph immediately after paragraph (2) –

(2A). A Securities Exchange may approve the listing of a security on a Growth Enterprise Market Segment if

–

(i) that security is not offered to the public; and

(ii) the listing is by way of introduction

(b) by inserting the following new paragraph immediately after paragraph (4)-

(4A). An issuer of securities approved for listing by a securities exchange shall pay the listing fees as set out in the Seventh Schedule; and

(c) by adding the following new paragraph immediately after paragraph (5)-

(6). A person whose securities have been approved by a Securities Exchange for listing shall state that fact on all announcements of the listing.

4. Regulation 5 of the principal Regulations is amended by adding the following new paragraph immediately after paragraph (2)-

(3) An issuer applying for a listing on the Growth Enterprise Market Segment shall be bound by all the obligations arising in respect of listing in such market.

5. The principal Regulations are amended by inserting the following new regulation immediately after regulation 6 –

Issuing on
growth
Enterprise
Market
Segment

6A (1). A person who intends to issue securities on a Growth Enterprise Market Segment shall publish a listing statement by making it available to the public or to a section of the public, free of charge at an address in Kenya, for such period prior to listing as prescribed by the Securities Exchange.

(2) The issuer shall, before the time of publication of the listing statement, obtain approval of the Securities Exchange that the listing statement complies with these Regulations.

(3) A Securities Exchange shall, at least seven days prior to granting any approval of a listing statement, submit to the Authority a copy of the listing statement it is considering for approval with a confirmation that the listing statement is in compliance with these Regulations.”

6. Regulation 7 of the principal Regulations is amended in paragraph (1) by inserting the following new sub-paragraph immediately after sub-paragraph (b) –

(bb) with respect to securities to be listed on the Growth Enterprise Market Segment, the issuer complies with the eligibility requirements as set out in Part C of the First Schedule.

7. Regulation 9 of the principal Regulations is amended –

(a) in paragraph (1), by deleting the words “Main Investment Market Segment or Alternative Investment Market Segment” and substituting therefor the words “any market segment of a Securities Exchange”; and

- (b) in paragraph (2), by deleting the words “Main Investment Market Segment or Alternative Investment Market Segment” and substituting therefor the words “any market segment of a Securities Exchange”.

8. Regulation 10 of the principal Regulations is amended-

- (a) in paragraph (1)-

- (i) by inserting the words “or listing statement” immediately after the word “prospectus”; and
- (ii) by adding the following new subparagraph immediately after subparagraph (c) –
- (cc) “Part CC of the Third Schedule where the issuer seeks to list on the Growth Enterprises Market Segment”;

- (b) in paragraph (2) –

- (i) by inserting the words “or listing statement” immediately after the word “prospectus”; and
- (ii) by inserting the words “or listing statement, as the case may be,” immediately after the word “prospectus” appearing in subparagraph (a).

9. The principal Regulations are amended by inserting the following new regulation immediately after regulation 10 –

Nominated
Advisors

“10A. (1) An issuer seeking to be listed on the Growth Enterprise Market Segment shall appoint a Nominated Adviser by a written contract and shall ensure that it has a Nominated Adviser at all times.

(2) The Securities Exchange shall suspend an issuer from trading if the issuer, at any time, ceases to have a duly appointed Nominated Adviser.

(3) A Nominated Adviser shall—

- (a) advise and guide an issuer on the application of listing requirements of Growth Enterprise Market Segment;
- (b) manage the submission of the listing statement and all other documentation to the Securities Exchange and ensure its completeness and correctness before submission;
- (c) confirm to the Securities Exchange that –
 - (i) the issuer complies with all the conditions for listing as set out in the listing requirements for the Growth Enterprise Market Segment;
 - (ii) the information contained in the listing statement is accurate and complete in all material aspects;

- (iii) there are no other matters, the omission of which would make any statement in the listing statement false or misleading;
 - (iv) statements of fact and opinion expressed by the directors in the listing statement have been arrived at after due and careful consideration on the part of the directors founded on fair and reasonable bases and assumptions; and
 - (v) the directors of the applicant have made sufficient enquiries to enable them give the confirmations set out in the responsibility statement contained in the listing statement;
- (d) satisfy itself on the credentials of the reporting accountants, auditors, competent persons, valuers, providers of opinions and any other party responsible for a listing statement as required under paragraph A.02 of Part CC of the Third Schedule;
- (e) satisfy itself, prior to submitting any documentation which requires approval by the Securities Exchange, that to

the best of its knowledge and belief, having made due and careful enquiry of the issuer and its advisers-

- (i) it is in compliance with the eligibility and disclosure requirements for listing on the Growth Enterprise Market Segment; and
 - (ii) there are no material matters, other than those disclosed in writing to the Securities Exchange, which should be taken into account by the Securities Exchange in considering the application;
- (f) provide the Securities Exchange with any information or explanation known to it in such form and within such time as the Securities Exchange may reasonably require for the purposes of verifying whether the Nominated Advisor or the issuer have complied with the listing requirements;
- (g) advise the Securities Exchange immediately if it is aware or have reason to suspect that any of its clients have or may have breached the listing requirements;

- (h) submit all documents to the Securities Exchange and ensure that where such documents or any announcements are required, that they are in compliance with the continuous listing obligations;
- (i) take all reasonable steps to brief all new appointments to the board of directors of the issuer as to the nature of their responsibilities under the listing requirements, other applicable regulation and the general nature of their obligations in relation to shareholders and shall ensure that –
 - (i) at least one third of the directors of the issuer have completed the Directors Induction Programme (DIP) prior to listing and the remainder complete the same within six months after the listing; and
 - (ii) all new appointments to the board of directors of the issuer complete the DIP within six months of appointment;

- (j) review with the issuer, prior to publication, all periodic financial information announcements, and any other documentation to ensure that the directors of the issuer, after due and careful consideration, understand the importance of accurately disclosing all material information to shareholders and the market;
- (k) ensure that at least one of its authorised representatives attends all board audit committee meetings of the issuer in an advisory capacity to ensure that the issuer conducts its meetings in compliance with the listing requirements and any applicable regulations; and
- (l) carry out any activities relating to company for which it is the Nominated Advisor as may be requested by the Securities Exchange, from time to time.

(4) A Nominated Adviser shall, in the discharge of its responsibilities under these Regulations, observe due care and skill and ensure, at all times, that its conduct or judgment does not impair

the integrity and reputation of the Growth Enterprise Market Segment.

10. Regulation 12 of the principal Regulations is amended-

- (a) in paragraph (1), by inserting the words “or a listing statement” immediately after the words “information memorandum”; and
- (b) by inserting the following new paragraph immediately after paragraph (4) –

“(5). A Securities Exchange may require additional information to be included in a listing statement if, in its opinion, it is in the interest of investors to be in a listing statement.”

11. The principal Regulations are amended by inserting the following new regulation immediately after regulation 13-

Supplementary
listing
statement

“13A (1). Where a listing statement has been approved under these Regulations, and at any time between the date of the listing statement and the date of listing of the relevant securities-

- (a) there is a significant change affecting any matter contained in the listing statement the inclusion of which was required by these regulations;
- (b) a significant new matter arises the disclosure of which would have been required if it had arisen when the listing statement was prepared; or
- (c) there is a significant inaccuracy in the listing statement,

the issuer shall, on its own motion, with prior consent of the Securities Exchange, or if required by the Securities Exchange, publish a supplementary listing statement containing particulars of the change or new matter or in the case of inaccuracy, correct it

(2) For the purposes of this regulation, “significant” means material change for the purposes of making an informed assessment of the matters mentioned in these Regulations.”

12. The principal Regulations are amended by inserting the following new regulation immediately after regulation 15 –

Listing
statement
exceptions

“15A The Securities Exchange may, in consultation with the Authority, authorize the omission from a listing statement, information whose inclusion would otherwise be required by these Regulations if the Securities Exchange considers that the disclosure of that information would be prejudicial to the interests of the issuer but does not prejudice the interests of investors ”

13. Regulation 16 of the principal Regulation is amended-

(a) in paragraph (1) by –

(i) inserting the words “or listing” immediately after the words “public offer”;

(ii) inserting the words “or a listing statement” immediately after the words “which a prospectus”; and

(iii) inserting the words “or a listing statement” immediately after the words “that a prospectus”.

(b) in paragraph (2) by-

(i) inserting the words “or Securities Exchange in the case of listing on the Growth Enterprise Market Segment” immediately after the words “to the Authority”; and

(ii) inserting the words “or the Securities Exchange” immediately after the words “and the Authority.”

14. Regulation 17 of the principal Regulations is amended-

(1) in paragraph (1)-

(a) by inserting the words “or a listing statement or a supplementary statement” immediately after the words “supplementary prospectus”;

(b) by inserting the words “or a listing statement or a supplementary statement” in subparagraph (a) immediately after the words “supplementary prospectus”;

(c) by inserting the words “or a listing statement or a supplementary statement” in subparagraph (b)

immediately after the words
“supplementary prospectus”;

(d) by inserting the words “or a
listing statement or a
supplementary statement” in
subparagraph (c)
immediately after the words
“supplementary prospectus”;

(e) by inserting the words “or a
listing statement or a
supplementary statement” in
subparagraph (d)
immediately after the words
“supplementary prospectus”;

(f) by inserting the words “or a
listing statement or a
supplementary statement” in
subparagraph (f)
immediately after the words
“supplementary prospectus”;

(g) by inserting the words “or a
listing statement or a
supplementary statement” in
subparagraph (g)
immediately after the words
“supplementary prospectus”;

(2) in paragraph (2)-

(a) by inserting the words “or a
listing statement or a
supplementary statement”
immediately after the words
“supplementary
prospectus”;

(b) by inserting the words “or a
listing statement or a
supplementary statement”
in subparagraph (a)
immediately after the words
“supplementary
prospectus”;

(c) by inserting the words “or a listing statement or a supplementary statement” in subparagraph immediately after the words “supplementary prospectus”; and

(3) in paragraph (3), by inserting the words “or a listing statement or a supplementary listing statement” immediately after the words “supplementary prospectus”.

15. Regulation 19 of the principal Regulations is amended in paragraph (1) by inserting the words “or listed” immediately after the word “public”.

16. The First Schedule of the principal Regulations is amended by inserting the following new Part immediately after Part B –

**PART C
CRITERIA FOR THE GROWTH
ENTERPRISE MARKET SEGMENT**

Incorporation status	The issuer to be listed shall be a public company limited by shares and registered under the Companies Act (Cap 486 of the Laws of Kenya)
Share capital	The issuer shall have a minimum authorized and fully paid up ordinary share capital of ten million shillings; and The issuer must have not less than one hundred thousand shares in issue
Free transferability of shares	Shares to be listed shall be freely transferable and not subject to any restrictions on

marketability or any pre-emptive rights

Competence and stability of directors and management The issuer must have a minimum of five directors, with at least a third of the Board as non executive directors.

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—

- (i) any petition under bankruptcy or insolvency laws in any jurisdiction pending or threatened against the director (for individuals), or any winding-up petition pending or threatened against it (for corporate bodies),
- (ii) 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
- (iii) been the subject of any ruling of a court of competent jurisdiction or any governmental body in any jurisdiction, 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 service institution or engaging in any type of business practice or activity in that jurisdiction

The directors and senior management of an applicant must collectively have appropriate expertise and experience for the governance and management of the applicant and its business

Details of such expertise and experience must be disclosed in any listing particulars prepared by the applicant "appropriate expertise and experience shall mean at least one year experience in the applicant's business, or where the applicant has no previous record, experience in similar line of business"

One third of the directors must have completed the Directors Induction Programme (DIP) prior to listing and the remainder must complete the same within six months after listing

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.

Solvency and adequacy of working capital

The issuer should not be insolvent.

The issuer should have adequate working capital

The Directors of the Issuer shall give an opinion on the adequacy of working capital for at least twelve months immediately following the share offering, and the auditors of the issuer shall confirm in writing the adequacy of that capital

Share ownership structure

The Issuer must ensure at least fifteen per cent of the issued shares (excluding those held by a controlling shareholder or people associated or acting in concert with him, or the Company's Senior Managers) are available for trade by the public.

An issuer shall cease to be eligible for listing upon the expiry of three months of the listing date, if the securities available for trade by the public are held by less than twenty-five shareholders (excluding those held by a controlling shareholder or people associated

or acting in concert with him, or the Company's Senior Managers)

The issuer must ensure that the existing shareholders, associated persons or such other group of controlling shareholders who have influence over management shall give an undertaking in terms agreeable to the Authority and the Securities Exchange restricting the sale of part or the whole of their shareholding before the expiry of a period of twenty four months following listing and such undertaking shall be disclosed in the listing statement

Listed Shares to be immobilized

All issued shares must be deposited at a central depository established under the Central Depositories Act, 2000 (No 4 of 2000)

Nominated Advisor

The issuer must appoint a Nominated Adviser in terms of a written contract and must ensure that it has a Nominated Adviser at all times

17. The Third Schedule of the Principal Regulations is amended by inserting the following new Part immediately after Part C -

PART CC

(r. 10(1)(cc))

**GROWTH ENTERPRISES MARKET
SEGMENT DISCLOSURE
REQUIREMENTS**

ID.A.00 Identity of directors, senior management and advisors (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 listing statement 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 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 listing statement has been attributed

ID.B.00 Offer statistics and expected timetable

B.01 (1) A statement that the Securities Exchange has approved listing of the shares on the Growth Enterprise Market Segment of the securities exchange.

(2) Cautionary statement of the Exchange.

B.02 The proposed listing price and the basis of determining the price

B.03 The total amount of the securities to be listed

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 listing statement, at a named place as the Securities Exchange 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 listing statement;
- (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/ ies, 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 listing statement:
 - (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 in accordance with 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 at least one year (two years, if the issuer has been in existence for such a period) preceding the

publication of the listing statement, including, in the case of a company incorporated in Kenya, all notes, reports or information required under the Companies Act (Cap 486).

- 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 securities exchange so requires.
- C.09 The amount of the issuer's authorized 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 authorized but un issued capital or is committed to increase the capital, an indication of-
- (a) the amount of such authorized capital or capital increase and, where appropriate, the duration of the authorization;

- (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 If an issuer has been in operation, a summary of the changes during the preceding one financial year in the amount of the issued capital of the issuer and, if material, the capital of any member of the group or the number and classes of securities of which it is composed. 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 installments 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 financial year.

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 year immediately preceding the publication of the listing statement, 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 year 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 year immediately preceding the date of publication of the listing statement, 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 year immediately preceding the date of publication of the listing statement, 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 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 category of products sold or services performed. Where the issuer or its subsidiaries carries on or proposes to carry on two or more businesses which are material having regard to the profits or losses, assets employed or to be employed, or any other factor, information as to the relative importance of each such business.
- 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 or activities.
- C.26 Particulars of royalties payable or items of a similar nature in respect of the issuer and any of its subsidiaries.
- C.27 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.28 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.29 A description, with figures, of the main investments made, including interests such as shares, debt securities etc., in other undertakings over the last financial year and during the current financial year.

C.30 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.31 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.32 Information concerning policy on the research and development of new products and processes over the past two financial years, where significant.

C.33 The basis for any statements made by the company regarding its competitive position shall be disclosed.

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

D.01 Unless otherwise approved by a securities exchange in exceptional circumstances and with the approval of the Authority :

If the issuer had declared annual accounts in the past-

(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, if the issuer has published annual accounts in the past, 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 listing statement 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 securities exchange 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 securities exchange 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 completed financial year 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 5% 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 listing statement, 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
 - (c) 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 listing statement.
- 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 listing statement.
- 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 constitution documents of the issuer regarding –

- (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 security holders, 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 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 security holders,, which means security holders that are the beneficial owners of at least three per cent or more of each class of the issuer's voting securities:

- (a) provide the names of the major security holders, and the number of securities and the percentage of outstanding securities of each class owned by each of them as of the most recent practicable date, or an appropriate negative statement if there are no major security holders;
- (b) disclose any significant change in the percentage ownership held by any major security holders during the past year; and
- (c) indicate whether the issuer's major security holders 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 security holders 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, foreign government or any other natural or legal person severally or jointly, and, if so, give the name of such controlling corporation, government or other person, and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote.
- 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 3% per cent 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 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 security holders of the issuer and enterprises that have a number of key management in common with the issuer. Shareholders beneficially owning a 3% interest in the voting power of the issuer are presumed to have a significant influence on the issuer including:
 - (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 listing statement, 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 authorized the contents of that part of the listing statement, and has not withdrawn his consent.
- F.09 If any of the named experts employed on a contingent basis, owns an amount of securities in the issuer or

- its subsidiaries which is material to that person, or has a material, direct or indirect economic interest in the issuer or that depends on the success of the listing, provide a brief description of the nature and terms of such contingency or interest.
- F.10 Provide a copy of the share register to the securities exchange.
- ID.G.00 Financial information**
- G.01 Financial information as required by paragraphs G.11 and G.12 set out in the form of an accountants' report.
- G.02 If applicable, an accountants' report, as set out in paragraphs G.11 and G.12 on the asset which is the subject of the transaction.
- G.03 (1) If the issuer prepares consolidated annual accounts only, it must include those accounts in the listing statement in accordance with paragraph G.01.
- (2) If the issuer prepares both own and consolidated annual accounts, it must include both sets of accounts in the listing statement 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 securities exchange and such accounts shall be available for inspection in accordance with paragraph C. 07.
- G.04 (1) Where the issuer includes its annual accounts in the listing statement, it must state the profit

or loss per share arising out of the issuer's ordinary activities, after tax for each of the last one financial year.

- (2) Where the issuer includes consolidated annual accounts in the listing statement, it must state the consolidated profit or loss per share for each of the preceding financial year; 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 listing statement.

G.05 If, in the course of the preceding financial year, the number of shares in the issuer has changed as a result, for example, of an increase in or reduction or re-organisation of capital, the profit or loss per share 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.06 Particulars of the dividend policy to be adopted;

- (a) the dividend policy to be adopted;
- (b) the pro-forma balance sheet prior to and immediately after the proposed issue of securities;
- (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 a consolidated form.
- G.07 The amount of the total dividends, the dividend per share and the dividend cover for each of the last financial year, adjusted, if necessary, to make it comparable in accordance with paragraph G.05
- G.09 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.10 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.11 A table showing the changes in financial position of the group over each of the last one financial year in the form of a cash-flow statement.
- G.12 (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 securities held;
- (i) the amount of dividends received in the course of the last financial year in respect of shares held; and
- (j) the amount of the debts owed to and by the issuer with regard to the undertaking.

(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

twenty per cent of the net profit or loss of the issuer or, in the case of a group, if the book value of that participating interest represents at least twenty per cent of the consolidated net assets or at least twenty per cent of the consolidated net profit or loss of the group.

- (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 securities exchange, 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 13 The name, registered office and proportion of capital held in respect of each undertaking not failing to be disclosed under paragraph G.12 (1) or (2) in which the issuer holds at least twenty per centum of the capital. These details may be omitted when they are of negligible importance for the purpose of enabling investors and their investment advisers to make an

informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the issuer or group and of the rights attaching to the securities to be listed.

G.14 When the listing statement includes consolidated annual accounts, disclosure:

- (a) of the consolidation principles applied (which must be described explicitly where such principles are not consistent with International Financial Reporting Standards (IFRS));
- (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.12; 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 15 Particulars of any arrangement under which future dividends are waived or agreed to be waived.
- G.16 (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 listing statement 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 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 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) The principles set out in paragraph G.06 shall apply where the issuer prepares consolidated annual accounts under this paragraph.

G.17 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 18 Details as described in paragraph G.17 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.19 Disclose how the loans receivable arose, stating whether they arose from the sale of assets by the issuer or any of its subsidiaries.

G 20 A statement that in the opinion of the directors, the issued capital of the issuer is adequate for the purposes of the business of the issuer and of its subsidiaries for the foreseeable future, and if the directors are of the opinion that it is inadequate, the extent of the inadequacy and the manner in which and the sources from which the issuer and its subsidiaries are to be financed. The statement should be supported by a report from the issuer's auditor, reporting accountant, investment banker, sponsoring stockbroker or other adviser acceptable to the Authority

The foreseeable future should normally be construed as the nine months subsequent to the date of the publication of the listing statement.

G 21 The issuer shall make the following information regarding the acquisition,

within the last year, or proposed acquisition by the issuer or any of its subsidiaries, of any securities in or the business undertaking of any other company or business enterprise or any immovable property or other property in the nature of a fixed asset (collectively called "the property") or any option to acquire such property shall be disclosed -

- (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; and
- (g) details regarding the vendors as described in paragraph 1.0.

G.22

The following details regarding any property disposed of during the past year, or to be disposed of, by the issuer, or any of its subsidiaries -

- (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.

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 most recent financial year

and any subsequent interim period for which financial statements are presented, the average rates for each period, calculated by using the average of the exchange rates on the last day of each month during the period.

ID.H.00 The listing

- H.01 A statement of the resolutions, authorizations and approvals by virtue of which the securities are to be listed.
- H.02 The nature and amount of the securities to be listed.
- H.03 (1) A summary of the rights attaching to the securities, and in particular the extent of the voting rights, entitlement to share in the profits and, in the event of liquidation, in any surplus and any other special rights. Where there is or is to be more than one class of shares of the issuer in issue, like details must be given for each class.
- (2) If the rights evidenced by the securities being listed are or may be materially limited or qualified by the rights evidenced by any other class of securities or by the provisions of any contract or other documents, include information regarding such limitation or qualification and its effect on the rights evidenced by the securities to be listed.
- (3) The time limit (if any) after which entitlement to dividend lapses and an indication of the

person in whose favour the lapse operates.

H.04 A statement regarding tax on the income from the shares withheld at source –

(a) in the country of origin; and

(b) in Kenya.

H.05 The fixed date(s) (if any) on which entitlement to dividends arises.

H.06 Details of any other securities exchanges (if any) where admission to listing is being or will be sought.

H.07 The following information must be given concerning the terms and conditions of the listing at a securities exchange where such listing is being effected at the same time as the subject listing or has been effected within the three months preceding application of the subject listing-

(a) if the listing has been or is being made simultaneously on the markets of two or more countries

(i) the listing price, stating the nominal value or, in its absence, the accounting par value; and

(ii) the share premium;

(b) the period during which the listing statement will be available prior to the

admission to listing and the names of the agents where the listing statement may be accessed;

- (c) a statement or estimate of the overall amount of the charges relating to the listing payable by the issuer, stating the total remuneration of the financial intermediaries

- H 9 A description of the securities for which application is made and, in particular, the number of securities and nominal value per security or, in the absence of nominal value, the accounting par value or the total nominal value, the exact designation or class, and coupons attached.
- H.10 The securities exchange at which the securities will be listed and the dates on which the securities will be admitted to listing and on which dealings will commence.
- H.11 The names of the securities exchanges (if any) on which securities of the same class are already listed.
- H.12 If during the period covered by the last financial year and the current financial year, there has occurred any public takeover offer by a third party in respect of the issuer's shares, or any public takeover offer by the issuer in respect of another company's shares, a statement to that effect and a statement of the price or exchange terms attaching to any such offers and the outcome thereof.

- H.13 A statement whether the issuer assumes responsibility for the withholding of tax at source.
- H.14 Where there is a substantial disparity between the listing price and the effective cash cost to directors or senior management, or affiliated persons, of securities acquired by them in transactions during the past five years, or which they have the right to acquire, include a comparison between that offer price and the listing price.
- H.15 Disclose the amount and percentage of immediate dilution resulting from the listing, computed as the difference between the listing price per share and the net book value per share for the equivalent class of security, as of the latest balance sheet date.
- H.16 The following information on expenses shall be provided-
- (a) the total amount of the discounts or commissions agreed upon by the financial intermediaries and the issuer shall be disclosed, as well as the percentage such commissions represent of the total amount of the listing costs per share;
 - (b) an itemised statement of the major categories of expenses incurred in connection with the listing and by whom the expenses are payable, if other than the issuer. The following expenses shall be

disclosed separately-

- (i) advertisement;
- (ii) printing of listing statement;
- (iii) approval and listing fees;
- (iv) financial advisory fees; and
- (v) the legal fees;

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 listing are payable by the issuer, stating the total remuneration of the intermediaries.

ID.I.00 Vendors

- 1.01 The names and addresses of the vendors of any assets purchased or acquired by the issuer or any subsidiary company during the year preceding the publication of the Information Memorandum or proposed to be purchased, or acquired, on capital account and the amount paid or payable in cash or securities to the vendor, and where there is more than one separate vendor, the amount so paid or payable to each vendor, and the

amount (if any) payable for goodwill or items of a similar nature. The cost of assets to the vendors and dates of purchase by them if within the preceding five financial years. Where the vendor is a company, the names and addresses of the beneficial shareholders, direct and indirect, of the company, if required by the Authority. Where this information is unobtainable, the reasons therefor are to be stated.

- 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, 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

- 1.07 The amount of any cash or securities paid or benefit given within the preceding year or proposed to be paid or given to any promoter not being a director, and the consideration for such payment or benefit
- 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.

18. The Fifth Schedule of the principal Regulations is amended -

- (a) in paragraph B.03, by adding the words "or where the issuer is listed on the Growth Enterprise Market Segment, on the issuer's website" immediately after the word "announcement";
- (b) in paragraph B. 06(2), by deleting all the words appearing immediately after the words "with the" and replacing therefor the words "relevant provisions of the International Financial Reporting Standards (IFRS)";
- (c) in paragraph D. 01, by inserting the words "or in the case of an issuer

listed on the Growth Enterprise Market Segment, 5% or more” immediately after the expression “3% or more”, and

- (d) by inserting the following new paragraph immediately after paragraph D 01-

“D 01 A. Where an issuer is listed in the Growth Enterprise Market Segment, the disclosure in paragraph D 01 shall include a report on a consolidated basis of the quantity and characteristics of the company’s securities directly or indirectly held by the Controlling Shareholder, and the senior managers, and the report on the evolution of the volume of securities held by them ”

19. The principal Regulations are amended by adding the following new Schedule immediately after the Sixth Schedule—

SEVENTH SCHEDULE (r.3 (4A))

LISTING FEE

Description	NSE	CDSC	CMA
Initial listing fee (Introduction)	0.03% of the value of the securities to be listed subject to a minimum of Kshs.50,000 and a maximum of Kshs.250,000 (for SMEs listing securities worth 834m)	NA	NA

Additional listing fee	0.05% of the nominal value of the additional securities to be listed subject to a minimum of Kshs.25,000 and a maximum of Kshs.125,000.	NA	NA
Annual listing fees	0.015% of the market capitalization of the listed securities as at the 30 th November subject to a minimum of Kshs.25,000 and a maximum of Kshs.125,000.	0.010% of the market capitalization of the listed securities as at the 30 th November subject to a minimum of Kshs.15,000 and a maximum of Kshs.83,333.	0.005% of the market capitalization of the listed securities as at the 30 th November subject to a minimum of Kshs.10,000 and a maximum of Kshs.41,667.

Made on the 14th June, 2012

KUNG'U GATABAKI,
Chairman,
Capital Markets Authority

STELLA KILONZO,
Chief Executive,
Capital Markets Authority