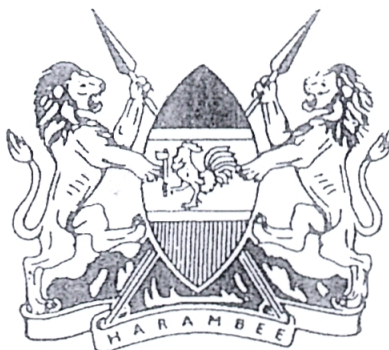


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THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered as a Newspaper at the G.P.O.)

Vol. CXXVII—No. 66

NAIROBI, 4th April, 2025

Price Sh. 60

GAZETTE NOTICES		CONTENTS	
	PAGE		PAGE
The Civil Procedure Act—Establishment of a High Court Sub-Registry at Wajir Law Courts, etc	1448	SUPPLEMENT Nos. 13, 14, 15, 16, 17, 18 and 19	
The Public Procurement and Asset Disposal Act—Re-Appointment.....	1448	<i>Legislative Supplements, 2025</i>	
The State Corporations Act—Appointment.....	1448	LEGAL NOTICE NO.	PAGE
The Advocates Act—Advocates of the Kenya Revenue Authority	1448–1449	25—The Water Act—Designation of National Public Water Works	167
County Governments Notices	1449–1450 1475–1484	26—The Crops (Nuts and Oil Crops) (Amendment) Regulations, 2024	167
The Land Registration Act—Issue of Provisional Certificates of Title, etc.	1450–1474	27—The Export Processing Zones Act—Declaration of Export Processing Zone	168
The Land Act—Corrigenda, etc	1473–1475	28–31—The Special Economic Zones Act—Declaration of Special Economic Zones	16
The Political Parties Act—Change of Political Party Constitution and Officials.....	1484–1485	32—Ol'Lessos National Polytechnic Order, 2025.....	171
The Proceeds of Crime and Anti-Money Laundering Act—Preservation Orders	1485–1486	33—Mitunguu National Polytechnic Order, 2025	185
The Kenya Information and Communications Act—Reinstatement of Revoked Licences.....	1487	34—Nairobi National Polytechnic Order, 2025.....	199
The Companies Act—Intended Dissolution.....	1487	35—Kaimosi Friends National Polytechnic Order, 2025	213
The Insurance Act—Insurance Companies, etc.	1487–1495	36—Michuki National Polytechnic Order, 2025	227
Change of Names	1495–1499	37—The Capital Markets (Derivatives Market) (Amendment) Regulations, 2025	241

		SUPPLEMENT No. 20	
		<i>National Assembly Bills, 2025</i>	
			PAGE
		The Basic Education (Amendment) Bill, 2025	39

(Legislative Supplement No. 14)

LEGAL NOTICE NO. 37

THE CAPITAL MARKETS ACT

(Cap. 485A)

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

THE CAPITAL MARKETS (DERIVATIVES MARKET) (AMENDMENT) REGULATIONS, 2025

1. These Regulations may be cited as the Capital Markets (Derivatives Market) (Amendment) Regulations, 2025. Citation.

2. Regulation 15 of the Capital Markets (Derivatives Market) Regulations is amended— Sub. Leg.

(a) by deleting sub-regulation (4) and substituting therefor the following new sub-regulation—

(4) A derivatives exchange shall submit to the Authority a liquid net worth certificate within thirty days after the end of each quarter.

(b) by adding the following new sub-regulation immediately after sub-regulation (4)—

(5) A derivatives exchange shall, at least once in each year, submit to the Authority an audited liquid net worth certificate from the auditor within ninety days after the end of each year.

Made on the 29th January, 2025.

JOHN MBADI NG'ONGO.

Cabinet Secretary for the

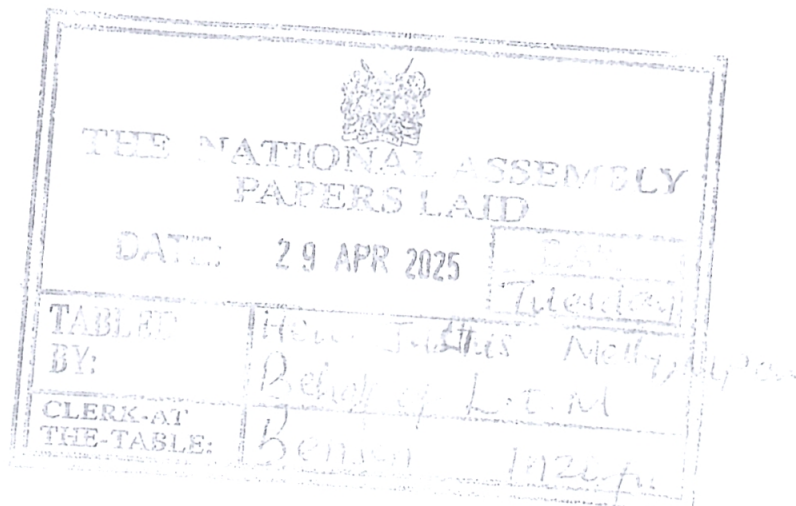
National Treasury and Economic Planning.

LEGAL NOTICE NO. 38

THE CENTRAL DEPOSITORIES ACT

(Cap. 485C)

IN EXERCISE of the powers conferred by section 65 of the Central Depositories Act, the Capital Markets Authority makes the following Rules—



THE CENTRAL DEPOSITORIES (REGULATION OF CENTRAL
DEPOSITORIES) (AMENDMENT) RULES, 2025

1. These Rules may be cited as the Central Depositories (Regulation of Central Depositories) (Amendment) Rules, 2025. Citation.

2. The Second Schedule to the Central Depositories (Regulation of Central Depositories) Rules, is amended by deleting item 1 and the corresponding rate and substituting therefor the following new item— Sub. Leg.

Deposit levy for Ksh. 150 per transaction on counter subject to a
issuers minimum of Ksh. 50,000 and maximum of Ksh.
5,000,000 per annum, payable quarterly

Made on the 23rd January, 2025.

UGAS SHEIKH MOHAMED,
*Chairman of the
Capital Market Authority.*

WYCKLIFFE SHAMIAH,
*Chief Executive Officer of the
Capital markets Authority.*



REPORT ON STAKEHOLDERS' ROUNDTABLE DISCUSSION ON CAPITAL MARKET 2024-
2025 POLICY PROPOSALS TO THE NATIONAL TREASURY

KENYATTA INTERNATIONAL CONVENTION CENTRE

NAIROBI

September 28th, 2023

Executive Summary

The Capital Markets Authority conducts a policy roundtable on annual basis. Round table discussions are part of the Capital Markets Authority's initiative to engage capital markets stakeholders in identifying, refining, and proposing the key interventions that will revitalize the capital markets to effectively play its critical role of resource mobilization as envisaged in the Vision 2030 Blueprint and in the realization of The Bottom-Up Economic Transformation Plan(Beta) and to stimulate growth in the capital market in light of the global economic crisis. The consultations which involve both the public and private sectors are also critical in identifying key barriers to development to inform the necessary legal, and institutional reforms that will spur the growth of Kenya's capital market in the wake of the global economic crisis.

The policy proposals discussed touched broadly on: Exemption of Derivatives Exchange in the submission of audited liquid net worth certificate to the Capital Markets Authority quarterly, Review of the 33 1/3 shareholding rule for new licensing applicants, CMA to setting requirements for approval of auditors of listed entities and licensees, Enhancing Investor Education, Enhancing domestic retail investors participation in the capital markets, Promoting ESG in the capital markets, Mandatory Listing of strategic national entities, Safeguarding Minority Shareholders, Extension of Stamp Duty Exemption, Introduction of a Take-over panel, Providing Transparency and Market Data Access, Increasing CDSC Depository Levy for Issuers, and Amending the Credit Rating Regulations.

Representatives of various industry participants, organizations, development partners, and fellow financial sector regulators participated in the round-table discussion with different functions within the Authority being represented.

Report of the Meeting

Opening Remarks

The Capital Markets Authority Chief Executive FCPA. Wycliffe Shamiah welcomed the capital markets stakeholders to the round-table discussion. He commended the stakeholders for sharing their policy proposals with the Authority, and for providing their consistent and unwavering support towards developing the industry by adopting some of the policy proposals submitted in the previous financial year.

Mr. Shamiah also noted that the theme of this year's forum is **"Supporting Kenya's Economic Transformation Via The Capital Markets"**. He further underscored the need for positive collaborative efforts from the stakeholders as it is a critical success factor in ensuring the successful implementation of the Kenya Kwanza manifesto.

Presentation on the Past Incentives Granted to the Capital Markets

Mr. Jairus Muaka, Senior Manager, Policy, and Regulatory Framework at Capital Markets Authority (CMA), made a presentation on the existing Capital Markets policy proposals, 2024-2025 as well as ongoing proposals. He also highlighted the need for the consultation process as it allows for better stakeholder engagement, which ultimately improves the uptake of capital market products.

Overview of Round Table Discussion Issues

Mr. Jairus Muaka also presented an overview of the issues lined up for discussion. The session aimed at giving the stakeholders an opportunity to seek clarification on the policy issues before they could embark on discussing the industry stakeholder recommendations on the policy issues.

Roundtable Discussions

Mr. Breitner Nyantika led the stakeholder engagement session on the policy issues for discussion to elicit feedback and agree on appropriate. The discussions were divided into five

groups each with representation from various industry participants, organizations, development partners, and fellow financial sector regulators.

The key observations and recommendations by the stakeholders were as detailed below;

Industry Feedback and Recommendations

Industry Feedback and Recommendations			
Policy Issue	Issue for Discussion	Question	Feedback & Recommendations
Exemption of Derivatives Exchange in the submission of audited liquid net worth certificate to the Capital Markets Authority quarterly	Regulation 15(4) of The Capital Markets (Derivatives Markets) Regulations, 2015 require that the Derivatives Exchange engage the services of an external auditor to independently ascertain their liquid net worth quarterly. The services of external auditors are costly and since other licensees' report quarterly without the need of hiring an external auditor this requirement is deemed too discriminative.	1.Should the (Derivatives Markets) Regulations 2015 be amended to provide for unaudited quarterly submission of liquid net worth report?	<p><u>Recommendations</u></p> <p>Amend Section 15(4) of the (Derivatives Markets) Regulations 2015 to provide for unaudited quarterly submission of liquid net worth report as follows.</p> <p>"(4) A derivatives exchange shall submit to the Authority a liquid net worth certificate on a quarterly basis within thirty days after the end of every quarter".</p>
Review of the 33 1/3 shareholding rule for new licensing applicants	Amend the Capital Markets Act Cap 485 Section 29. (4) that requires that an individual or a corporate person shall not, in relation to a company— (a) control or be beneficially entitled, directly or indirectly, to more than thirty-three and a third percent of the issued share capital or voting rights in a company. A number of	1.Should the Capital Markets Act Cap 485 Section 29. (4) be amended by allowing shareholders to own up to 100% of the share capital when applying for a license?	<p><u>Recommendations</u></p> <p>Deletion of Section 29. (4)(a) of the Capital Markets Act Cap 485 to remove shareholder limits.</p>

	license applicants have complained that this provision is intrusive and restrictive to the ease of doing business.		
The CMA to set requirements for approval of auditors of listed entities and licensees.	To enhance investor confidence in the market it is recommended that the Authority approve a pool of auditors from which issuers can choose from given the historical issues with auditors with ethical concerns.	1.Should the Authority set requirements for approval of auditors of listed entities and licensees?	<p><u>Recommendations</u></p> <p>There is need for CMA to set to a criterion for all auditors of listed entities and licensees rather than approve them.</p>
Enhanced Investor Education	<ul style="list-style-type: none"> • There is need to explore ways in which the capital markets industry can enhance investor education and product awareness. • It has been established that capital markets products tend to be complex even for those who have knowledge of financial matters. The complexity has made it hard for inexperienced investors to consider investing in capital market. 	<p>1.What are the innovative ways the industry can explore in enhancing investor education to support capital markets product uptake?</p> <p>2.What initiatives should the industry undertake to enhance literacy on capital markets products?</p>	<p><u>Recommendations</u></p> <p>There is need for;</p> <ul style="list-style-type: none"> • Demystify its image as a regulator. • Work with established companies to disseminate information to the public. • Giving a clear distinction between regulated and non-regulated entities • Decentralization of information • Education on judicial system to ease the process of solving cases. • Dealing with rogue players in the market • Branding • Education on investor compensation fund • Resolving the issue on complexity of products • Educating investors in terms of returns • Accessibility for persons with disabilities • Determining how trading will be revived.

			<ul style="list-style-type: none"> • Building on the right content for marketing materials. • Leveraging on strategic partnerships • Reviving the initiative of exhibition days for market players
Enhancing domestic retail investors participation in the capital markets	There is need to enhance domestic retail investors participation in the capital markets	<p>1.What strategies and initiatives can be put in place to enhance domestic retail investor participation in the capital markets?</p> <p>2.What preferential incentives should be given to domestic institutional investors to enhance their participation in the domestic capital markets?</p>	<p><u>Recommendations</u></p> <p>There is need for;</p> <ul style="list-style-type: none"> • Prior introduction of a product in the market before uptake • Cascading investor information downwards • Giving feedback to CBK on the need to ease the use of DhowCSD.
Promoting ESG in the capital markets	There is need to explore ways of enhancing the capital markets response to adopting ESG considerations.	Describe the products, services that the industry should innovate as a way of promoting ESG adoption in the capital markets?	<p><u>Recommendations</u></p> <p>There is need to;</p> <ul style="list-style-type: none"> • Practicalize ESG in personal level • Develop the carbon market regulatory framework. • Partner with developed exchanges • Develop unbiased and dynamic rating tools for ESG. • Enforcing penalties on ESG defaulters

Mandatory Listing of strategic national entities	CMA to consider listing requirements for all designated companies of strategic national significance to enhance supervision in alignment with national objectives for example companies in telecommunications, food and beverage processing, utilities, financial institutions, Fast-Moving Consumer Goods (FMCG) manufacturing, and Pharmaceuticals among others.	1.Should the Authority lobby for the mandatory listing of entities of strategic and national significance? 2.What criteria should be applied to	<u>Recommendations</u> There is need to <ul style="list-style-type: none"> List based on percentage market share and carry the rest of the industry. Engage more with those on the round like saccos and cooperative societies.
Safeguarding Minority Shareholders	Minority shareholders holding voting shares that represent 15% or more of the voting capital should be entitled to appoint one member for the board. •In the case of state-owned public companies, minority shareholders should be accorded the right to elect one representative to the board with no minimum share capital requirement. The company should be required to facilitate this process.	1.Should minority investors have the power to appoint a director to the board of a listed company? 2.What powers should the Authority be granted to protect minority investors?	<u>Recommendations</u> There is need to amend The Code of Corporate Governance Practices for Issuers of Securities to the Public by inserting the following provision; “The Board shall implement a policy on the structure of nominating and appointment of a director(s) representing minority investors”.
Extension of Stamp Duty Exemption	The lapse of the Stamp Duty Exemption set for 31st December 2022 as stipulated under Section 96A (4) of the Stamp Duty Act The provision in Section 96A (4) of the Stamp Duty Act provides two qualifiers for this exemption – (i) that	1.Is there a need for the exemption to be open-ended and expand the applicable grounds for the exemption?	<u>Recommendations</u> There is need to; <ul style="list-style-type: none"> Amend the Stamp Duty Act in Section 96A(1)(by deleting sub paragraph (b) and substituting therefor the following new paragraph-“ that the effect thereof is to convey or transfer a beneficial interest in property

the effect thereof is to convey or transfer a beneficial interest in property from one trustee to another trustee or to an additional trustee.

Essentially it is not common practice to have properties being transferred from REIT to REIT. A REIT would typically acquire properties from private property owners.

and
(ii) that the effect thereof is to convey or transfer a beneficial interest in property from a person or persons for the transfer of units in the real estate investment trust. For instance a property owner transferring property into a REIT can be paid in form of REIT units.

Hardly do private property owners want the consideration in exchange for properties to be in the form of REIT units.

Both clauses mentioned above are very conditional and thus applicable in rare occurrences. We propose that the 2 clauses be expanded or left open to allow broader instances for its applicability.

from a person to a real estate investment trust for valuable consideration.

- Delete Section 96A (4).

	The exemption for instruments to which paragraph (1)(b) applies shall only have effect in respect of instruments executed before the 31st of December 2022.		
Introduction of a Take-over panel	Takeover panel or committees are independent bodies established by securities regulators whose functions are to implement the take-over regulations whilst addressing other incidental matters to which the takeover regulations(code) applies. The constitution, responsibilities, and mandate of the takeover panel should be sufficiently clear to ensure takeover related disputes are timely and comprehensively handled and resolved.	1.Should the Capital Markets (Take-Overs and Mergers) Regulations be amended to introduce a Takeover Panel?	<u>Recommendations</u> <ul style="list-style-type: none"> • Need to have an expert to advise the take-over committee rather than introduce an independent take-over panel.
Transparency and Market Data Access	There is a need to make policies that provide widespread information for all market players to address discussions and regulatory scrutiny triggered by worries about the transparency of market.	1.What policies should be put in place to enhance transparency and market data access in the capital markets?	<u>Recommendations</u> <p>There is need to;</p> <ul style="list-style-type: none"> • Reduce transaction cost. • Allow mass access to historical data. • Make primary data freely available. • Have symmetry in information.
CDSC Depository Levy for Issuers	The Central Depositories Act empowers the CDSC to charge such	1.Should the Authority amend the Central	<u>Recommendations</u>

	<p>fees and levy such transaction and depository levies and penalties as approved by the Authority. To ensure the financial sustainability of the CDSC proposes an increase in the cap of the Depository Levy from KES 1 million to 5 million.</p>	<p>Depositories Act by increasing the cap on the Depository Levy for Issuers from KES 1 million to 5 million?</p>	<p>There is need to amend the Second Schedule of The Central Depositories (Regulation of Central Depositories) Rules, 2004 be amended as follows;</p> <ul style="list-style-type: none"> • Depository levy for issuers to be Ksh. 150.00 per transaction on counter subject to a minimum of KSh.50,000 and a maximum of Ksh.5,000,000 per annum payable quarterly in arrears.
<p>Credit Rating</p>	<p>There is need for credit rating entities carrying out ratings in Kenya to demonstrate Kenya specific technical capacity and experience.</p>	<p>1. Should the Credit Rating Regulations be amended to provide for a requirement for CRA's to demonstrate Kenya specific technical capacity and experience?</p>	<p><u>Recommendations</u></p> <p>There is no need for Credit Rating Regulations be amended to provide for a requirement for CRA's to demonstrate Kenya specific technical capacity and experience since domestic and global credit rating do not conflict and can work collaboratively</p>



ROUND TABLE DISCUSSIONS ON POLICY PROPOSALS 2024-25 ON

28 September 2023

VENUE: KENYATTA INTERNATIONAL CONVENTION CENTRE

TIME	ACTIVITY	FACILITATOR
8.45 am - 9.00 am	Arrival and e-Registration	CMA
9.00 am – 9.10 am	Welcome Remarks	FCPA. Wyckliffe Shamiah, Chief Executive Officer, CMA
9.10am – 9.35 am	Overview of Round Table Discussion Issues	Mr. Jairus Muaka, Senior Manager, Policy and Regulatory Framework
9.35 am – 09.45 am	ASSIGNMENT TO BREAKOUT ROOMS	
09.45 am -11.30 am	Round Table Discussions	Chairpersons Group 1 Group 2 Group 3 Group 4
11.30 am – 12.30 pm	Group Presentations & Plenary	Secretaries Group 1 Group 2 Group 3 Group 4
12.30 pm – 12:40pm	Way Forward	Ms. Josephine Kang'ong'a, Policy and Regulatory Framework
12.40 pm – 12:45 non	Vote of Thanks	Ms. Elizabeth Wairimu, Policy and Regulatory Framework
12:45 pm	End of Session-Lunch Break	

MC: Mr. Breitner Nyantika, Policy and Regulatory Framework Department



POLICY ISSUES FOR DISCUSSION

ROUND TABLE DISCUSSIONS ON POLICY PROPOSALS 2024-25 ON

28TH OCTOBER 2023

KENYATTA INTERNATIONAL CONVENTION CENTRE

Group	Issue for Discussion	Questions	Members
1	<p>Exemption of Derivatives Exchange in the submission of audited liquid net worth certificate to the Capital Markets Authority quarterly</p> <p>Notes Regulation 15(4) of The Capital Markets (Derivatives Markets) Regulations, 2015 require that the Derivatives Exchange engage the services of an external auditor to independently ascertain their liquid net worth quarterly. The services of external auditors are costly and since other licensees' report quarterly without the need of hiring an external auditor this requirement is deemed too discriminative.</p> <p>Review of the 33 1/3 shareholding rule for new licensing applicants</p> <p>Notes Amend the Capital Markets Act Cap 485 Section 29. (4) that requires that an individual or a corporate person shall not, in relation to a company— (a) control or be beneficially entitled, directly or indirectly, to more than thirty-three and a third percent of the issued share capital or voting rights in a company. A number of license applicants have complained that this provision is intrusive and restrictive to the ease of doing business.</p>	<p>1. Should the (Derivatives Markets) Regulations 2015 be amended to provide for unaudited quarterly submission of liquid net worth report?</p> <p>1. Should the Capital Markets Act Cap 485 Section 29.(4) be amended by allowing shareholders to own up to 100% of the share capital when applying for a license?</p>	<p>Standard Investment Bank-Chairing Nairobi Securities Exchange Insurance Regulatory Authority Deloitte Institute of Certified Secretaries Kenya Deposit Insurance Corporation Central Bank of Kenya Faida Investment Bank Star Capital Management Limited</p> <p>CMA-Secretariat</p>
	<p>The CMA to set requirements for approval of auditors of listed entities and licensees</p> <p>Notes</p>	<p>1. Should the Authority set requirements for approval of auditors of listed entities and licensees?</p>	

	To enhance investor confidence in the market it is recommended that the Authority approve a pool of auditors from which issuers can choose from given the historical issues with auditors with ethical concerns.		
2	<p>Enhanced Investor Education</p> <p>Notes</p> <ul style="list-style-type: none"> • There is need to explore ways in which the capital markets industry can enhance investor education and product awareness. • It has been established that capital markets products tend to be complex even for those who have knowledge of financial matters. The complexity has made it hard for inexperienced investors to consider investing in capital market. 	<ol style="list-style-type: none"> 1. What are the innovative ways the industry can explore in enhancing investor education to support capital markets product uptake? 2. What initiatives should the industry undertake to enhance literacy on capital markets products? 	<p>Exinity- Chairing</p> <p>Standard Investment Bank Nairobi Securities Exchange Suntra Investments Limited AKN Investments Limited Sanlaam Investment Bank TransCentury Group Faida Investment Bank Exinity Equity Group Holdings Plc The Sacco Societies Regulatory Authority (SASRA)</p> <p>CMA-Secretariat</p>
	Enhancing domestic retail investors participation in the capital markets	<ol style="list-style-type: none"> 1. What strategies and initiatives can be put in place to enhance domestic retail investor participation in the capital markets? 2. What preferential incentives should be given to domestic institutional investors to enhance their participation in the domestic capital markets? 	
3	<p>Promoting ESG in the capital markets</p> <p>Notes</p>	<ol style="list-style-type: none"> 1. Describe the products, services that the industry should innovate as a way of 	<p>Lofty Carbon-Chairing</p> <p>Nairobi Securities Exchange Sameer Africa Plc</p>

	<p>There is need to explore ways of enhancing the capital markets response to adopting ESG considerations.</p> <p>Mandatory Listing of strategic national entities</p> <p>Notes</p> <p>CMA to consider listing requirements for all designated companies of strategic national significance to enhance supervision in alignment with national objectives for example companies in telecommunications, food and beverage processing, utilities, financial institutions, Fast-Moving Consumer Goods (FMCG) manufacturing, and Pharmaceuticals among others.</p> <p>Safeguarding Minority Shareholders</p> <p>Notes</p> <p>Minority shareholders holding voting shares that represent 15% or more of the voting capital should be entitled to appoint one member for the board.</p> <p>•In the case of state-owned public companies, minority shareholders should be accorded the right to elect one representative to the board with no minimum share capital requirement. The company should be required to facilitate this process.</p>	<p>promoting ESG adoption in the capital markets?</p> <p>1.Should the Authority lobby for the mandatory listing of entities of strategic and national significance?</p> <p>2.What criteria should be applied to</p> <p>1.Should minority investors have the power to appoint a director to the board of a listed company?</p> <p>2.What powers should the Authority be granted to protect minority investors?</p>	<p>Ernst and Young Kenya Development Corporation The Privatization Commission Vision 2030 Delivery Secretariat Fund Managers Association The National Treasury and Economic Planning Metropol Corporation Limuru Tea Plc Kenya Association of Stockbrokers and Investment Banks CMA-Secretariat</p>
4	<p>Extension of Stamp Duty Exemption</p> <p>Notes</p>	<p>1. Is there a need for the exemption to be open-ended and expand the applicable grounds for the exemption?</p>	<p>KPMG-Chairing Nairobi Securities Exchange Old Mutual REITs Association of Kenya Etica Capital ABC Capital</p>

	<p>The lapse of the Stamp Duty Exemption set for 31st December 2022 as stipulated under Section 96A(4) of the Stamp Duty Act</p> <p>The provision in Section 96A (4) of the Stamp Duty Act provides two qualifiers for this exemption – (i) that the effect thereof is to convey or transfer a beneficial interest in property from one trustee to another trustee or to an additional trustee.</p> <p>Essentially it is not common practice to have properties being transferred from REIT to REIT. A REIT would typically acquire properties from private property owners.</p> <p>and</p> <p>(ii) that the effect thereof is to convey or transfer a beneficial interest in property from a person or persons for the transfer of units in the real estate investment trust. For instance a property owner transferring property into a REIT can be paid in form of REIT units.</p> <p>Hardly do private property owners want the consideration in exchange for properties to be in the form of REIT units.</p> <p>Both clauses mentioned above are very conditional and thus applicable in rare occurrences. We propose that the 2 clauses be expanded or left open to allow broader instances for its applicability.</p> <p>The exemption for instruments to which paragraph (1)(b) applies shall only have effect in respect of instruments executed before the 31st of December, 2022.</p>		<p>Nabo Capital Metropol Corporation Faida Investment Bank Apollo Asset Management Gulf African Bank CMA-Secretariat</p>
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	<p>Introduction of a Take-over panel</p> <p>Note: Takeover panel or committees are independent bodies established by securities regulators whose functions are to implement the take-over regulations whilst addressing other incidental matters to which the takeover regulations(code) applies. The constitution, responsibilities, and mandate of the takeover panel should be sufficiently clear to ensure takeover related disputes are timely and comprehensively handled and resolved.</p>	<p>1. Should the Capital Markets (Take-Overs and Mergers) Regulations be amended to introduce a Takeover Panel?</p>	
5	<p>Transparency and Market Data Access</p> <p>Notes There is a need to make policies that provide widespread information for all market players to address discussions and regulatory scrutiny triggered by worries about the transparency of market.</p>	<p>1. What policies should be put in place to enhance transparency and market data access in the capital markets?</p>	<p>TransCentury Group-Chairing Metropol Corporation Limuru Tea Plc GenAfrica Asset Managers Limited TransCentury Group I&M Bank Etica Capital Equity Group Holdings Plc Central Bank of Kenya Genghis Capital Central Depository and Settlement Corporation</p>
	<p>CDSC Depository Levy for Issuers</p>	<p>1. Should the Authority amend the Central</p>	

	<p>Notes</p> <p>The Central Depositories Act empowers the CDSC to charge such fees and levy such transaction and depository levies and penalties as approved by the Authority. To ensure the financial sustainability of the CDSC proposes an increase in the cap of the Depository Levy from KES 1 million to 5 million.</p>	<p>Depositories Act by increasing the cap on the Depository Levy for Issuers from KES 1 million to 5 million?</p>	<p>Kenya Association of Stockbrokers and Investment Banks SBM Bank (Kenya) Limited CMA-Secretariat</p>
<p>Credit Rating</p> <p>Notes</p> <p>There is need for credit rating entities carrying out ratings in Kenya to demonstrate Kenya specific technical capacity and experience.</p>	<p>1. Should the Credit Rating Regulations be amended to provide for a requirement for CRA's to demonstrate Kenya specific technical capacity and experience?</p>		

EXPLANATORY MEMORANDUM ON THE CAPITAL MARKETS (DERIVATIVES MARKET) (AMENDMENT) REGULATIONS 2025

**LEGAL NOTICE NO. 37 OF 2025
GAZETTE NO. VOL.CXXVII- No. 66**

PART I

Statutory Instrument : **Capital Markets (Derivatives Markets) (Amendment) Regulations 2025.**

Parent Act : **Capital Markets Act, Cap 485A Laws of Kenya.**

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

Name of Ministry : **The National Treasury and Economic Planning.**

Gazetted on : **4th April 2025**

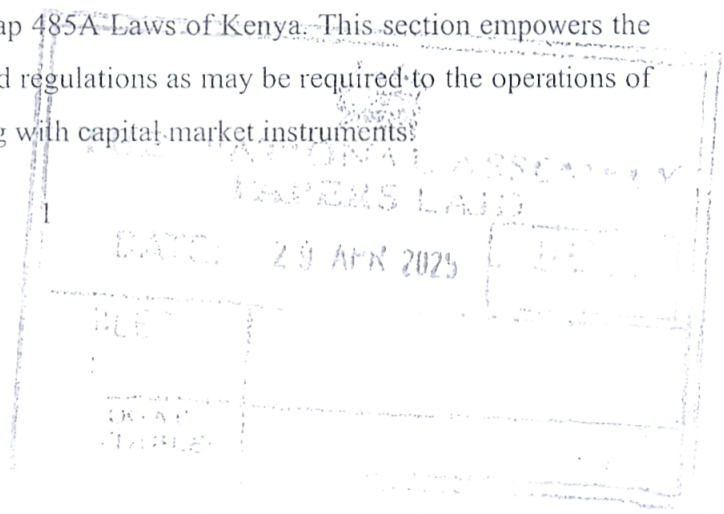
1. Purpose of Statutory Instrument

The Regulations seek to amend the Capital Markets (Derivatives Markets) Regulations, 2015 to ease the cost of doing business of a derivatives exchange by removing the requirement to submit an audited liquid net worth certificate quarterly.

The services of external auditors are costly and since other licensee's report quarterly without the need of hiring an external auditor this requirement is deemed too discriminative and onerous on the Derivatives Exchange. While the objective of the requirement was to have the exchange review its liquidity position quarterly and report to the Authority, the requirement for an audited certificate is indeed an onerous on the exchange. The derivatives exchange will be submitting unaudited reports quarterly and a final audited report annually.

2. Legislative Context

The Capital Markets (Derivatives Markets) (Amendment) Regulations 2025 are made pursuant to Section 12 (1) of the Capital Markets Act Cap 485A Laws of Kenya. This section empowers the Cabinet Secretary to formulate such rules and regulations as may be required to the operations of any other bodies corporate or persons dealing with capital market instruments.



3. Consultation

The proposal to amend was submitted by a stakeholder following a call for proposals by the Authority on 14th August, 2023. Thereafter, the Authority held a Roundtable meeting with stakeholders on 28th September, 2023 in which this proposal was discussed and approved by stakeholders to progress. The purpose of the roundtable meeting was to provide a platform for strategic dialogue with capital market players, market participants, strategic partners and policy makers to discuss the necessary policy, legal, institutional, and legislative reforms to be undertaken to deepen the market.

The report of the stakeholder engagement is attached hereto.

4. Impact

4.1 Impact on Fundamental Rights and Freedoms

The regulation neither has a direct impact nor negatively affects the fundamental rights and freedoms under the Constitution.

4.2 Impact on the Private Sector

The Regulations have a positive impact on the private sector as it seeks to reduce the cost of doing business.

4.3 Impact on the Public Sector

The Regulations will enhance Kenya's capital markets attractiveness since the amendments seek to reduce the cost of doing business.

5. Monitoring and review

Monitoring and review will be undertaken by the Directorate of Market Operations which monitors compliance with existing laws under the Market Supervision department and investigation and enforcement processes for non-compliance, through the Investigation and Enforcement department.

6. Contact

The Chief Executive Officer
Capital Markets Authority
Embankment Plaza, 3rd Floor, Longonot Road, Upperhill
P.O. Box 74800-00200
NAIROBI

Tel: +254-20-2264900,2221910,2226225

Website: www.cma.or.ke