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Legal Notice No. EAC/21/2015.

DIRECTIVE EAC/EX/CN29/DIRECTIVE 17
OF THE COUNCIL OF MINISTERS

OF

(29TH APRIL, 2014)

ON COLLECTIVE INVESTMENT SCHEMES (CIS)

PREAMBLE

The Council of Ministers of the East African Community

Having regard to the Treaty for the Establishment of the East African Community and in particular Articles 85 (d), 14(3) and 16;

WHEREAS Article 31 of the Protocol on the Establishment of the East African Community Common Market provides that for proper functioning of the Common Market the Partner States undertake to co-ordinate and harmonize their financial sector policies and regulatory frameworks to ensure the efficiency and stability of their financial systems as well as the smooth operations of the payment systems;

WHEREAS Article 47 of the Protocol on the Establishment of the East African Community Common Market provides that the Partner States undertake to approximate their national laws and to harmonize their policies and systems, for purposes of implementing this Protocol and that the Council shall issue directives for the purposes of implementing this Article.

HAS ADOPTED THIS DIRECTIVE.

ARTICLE 1
INTERPRETATION

In this Directive, unless the context otherwise requires—

"**Collective Investment Scheme or (CIS)**" is a scheme which collects and pools funds from the public or a section of the public for the purpose of investment in the interest of each investor represented by his or her proportional ownership in the pool and includes—

(a) an investment company;

(b) a unit trust;

(c) any other arrangements with respect to property of any description, including money, the purpose or effect of which is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income; or

(d) any scheme that any relevant Competent Authority may deem to be a CIS for the purposes of this Directive.

The arrangements referred to in paragraph (1)(c) must be such that;

(a) the participants do not have day-to-day control over the management of the property of the scheme, whether or not they have the right to be consulted or to give directions;

(b) the contributions of the participants and the profits or income out of which payments are to be made to them are pooled;

(c) the property in question is managed as a whole by or on behalf of the fund manager of the scheme;

"custodian" means a person by way of business that is licensed to provide custodial services for a CIS in any of the Partner States;

"fund manager or investment manager" means a person by way of business that is licensed to provide fund management services for a CIS in any of the Partner States;

"Secretary General" means the Secretary General of the Community appointed under Article 67 of the Treaty;

"Trustee" means a person by way of business that is licensed to provide trustee services for a CIS in any of the Partner States.

ARTICLE 2
PRINCIPLES

1. In implementing this Directive, Partner States shall respect the following principles:

(a) ensure confidence in capital markets by promoting high standards of transparency;

(b) provide investors with a wide range of competing investment opportunities and a level of disclosure and protection tailored to their circumstances;

(c) ensure that independent Competent Authorities enforce the rules consistently, especially as regards the fight against securities fraud;

(d) ensure high level of transparency and consultations with all market participants and with the East African Legislative Assembly and the Council of Ministers;

(e) encourage innovation in capital markets to be dynamic and efficient;

(f) ensure systemic stability of the financial system by close and reactive monitoring of financial innovation;

(g) assist in reducing the cost of, and increasing access to capital;

(h) balance, on a long-term basis, the costs and benefits to market participants (including SMEs and small investors) of any implementing measures;

(i) harmonize the tax regimes for CIS in the Partner States;

(j) foster the international competitiveness of the community's financial markets;

(k) achieve a level playing field for all market participants by establishing community legislation every time it is appropriate;

(l) respect differences in national financial markets where these do not unduly impinge on the coherence of the common market; and

(m) measure coherence with Partner States pieces of legislation in this area, as imbalances in information and lack of transparency may jeopardize the operation of the markets and above all harm consumers and small investors.

2. The Partner States shall take into account the technical developments in financial markets to ensure uniform application of this Directive.

3. The Partner States shall lay down a system of effective, proportional and dissuasive sanctions for breaches of the national laws adopted pursuant to this Directive and shall take all the measures necessary to ensure that these sanctions are applied.

ARTICLE 3
OBJECTIVE

The objective of this Directive is to harmonize the standards for the eligibility, governance, organization and operational conduct of those who wish to market or operate a collective investment scheme in the securities markets of Partner States with a view to;

(a) protecting investors;

(b) ensuring fair, efficient and transparent markets;

(c) reducing systemic risks;

(d) allowing for cross border operation and marketing of Collective Investment Scheme using a single set of disclosure standards/requirements; and

(e) allowing for multiple/simultaneous listings.

ARTICLE 4
SCOPE

This Directive shall apply to Collective Investment Schemes that are operated, promoted or marketed in more than one Partner State.

ARTICLE 5
APPLICATION FOR RECOGNITION

1. A Collective Investment Scheme which is licensed, authorised, approved or registered in any Partner State may apply for recognition in another Partner State.

2. An application for recognition of a foreign scheme shall be made to the competent authority and shall contain the information specified in the Schedule.

3. The application shall be accompanied by the following—

   (a) the scheme's formation documents;

   (b) the scheme particulars;

   (c) the fund manager's latest audited report;

   (d) the trustee's latest audited report;

   (e) the custodian's latest audited report; and

   (f) the prescribed application fee.

ARTICLE 6
APPROVAL OF APPLICATION

1. The Competent Authority in the host country may, on an application made in accordance with this Directive make an order declaring the scheme to be a recognized Collective Investment Scheme.

2. The relevant Competent Authority in the host country shall inform the applicant of its decision on the application that is duly made not later than one (1) month after the date on which the application was received.

3. The relevant Competent Authority shall:

   (a) not reject an application without first giving the applicant an opportunity to be heard; and

   (b) if it rejects the application, notify the applicant in writing of the refusal and the reasons for the refusal.

ARTICLE 7
AMENDMENTS

1. This Directive may be amended by the Council of Ministers.

2. Any proposals for amendment may be submitted in writing by the Partner States to the Secretary General for submission to the Council of Ministers.

ARTICLE 8
IMPLEMENTATION

1. The Partner States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than one(1) year from the date of the Council of Ministers' approval. They shall forthwith inform the Council of Ministers thereof.

2. When the Partner States adopt those measures they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods for making such reference shall be laid down by Partner States.

SCHEDULE

1. General details of the collective investment scheme

(a) name of the Collective Investment Scheme;

(b) details of funds under the CIS;

(c) structure of the Collective Investment Scheme;

(d) applicable Act or law and the date and country of establishment/incorporation;

(e) quotation on any securities exchange and authorization granted by other regulatory bodies;

(f) letters of no objection from the Competent Authority;

(g) launch: date and place;

(h) dealing: daily/weekly/other;

(i) valuation of assets: daily/weekly/other;

(j) pricing: forward/historic/other;

(k) scheme Investment policy; and

(l) most recent annual audited financial report.

2. For each Collective Investment Scheme

(a) fee structure –

(i) level of all charges payable by participant; and

(ii) level/basis of calculation of all charges payable by the collective investment scheme.

(b) for equity or bond Collective Investment Schemes –

(i) investment objective and borrowing powers; and

(ii) currency of denomination.

(c) minimum initial subscription and the minimum subsequent holding.

3. Details of the parties to the Collective Investment Scheme

(a) the fund manager:—

(i) name;

(ii) registered/business address in the country of origin and the Partner State where recognition is sought;

(iii) name of the ultimate holding company;

(iv) previously approved by the relevant Competent Authority to manage authorised Collective Investment schemes. If no, the resumes of the directors and most recent audited financial report; and

(v) person(s) for contact with the relevant Competent Authority.

(b) In the case of an investment company, the resumes of the directors of the collective investment scheme and person(s) for contact.

(c) The custodian:—

(i) name;

(ii) registered/business address in the country of origin and the Partner State where recognition is sought;

(iii) name of the ultimate holding company;

(iv) previously approved by the relevant Competent Authority as custodian of authorised collective investment schemes. If no, names of the directors and most recent audited financial report; and

(v) person(s) for contact with the relevant Competent Authority.

(d) The trustee:—

(i) name;

(ii) registered/business address in the country of origin and the Partner State where recognition is sought;

(iii) name of the ultimate holding company;

(iv) previously approved by the relevant Competent Authority as custodian of authorised collective investment schemes. If no, names of the directors and most recent audited financial report; and

(v) person(s) for contact with the relevant Competent Authority.

(e) For the purpose of this Directive, a Trustee may discharge the functions/duties of a Custodian.

(f) The investment adviser (if any)—

(i) name; and

(ii) registered/business address in the country of origin and the Partner State where recognition is sought.

(g) For the trustee, custodian, fund manager, fund administrator and investment adviser –

(i) name;

(ii) registered/business address in the country of origin.

(iii) copy of licence/practising certificate

(h) The auditor—

(i) name;

(ii) registered/business address in the country of origin; and

(iii) copy of licence/practising certificate.

(i) The principal stockbroker/broker dealer (if any)—

(i) name;

(ii) registered/business address in the country of origin and the Partner State where recognition is sought;

(iii) the approximate percentage of the scheme's transactions in value of securities carried out by the principal stockbroker within the latest financial year of the scheme; and

(iv) whether the trustee, custodian, the directors of the scheme, the fund manager, fund administrator or the investment adviser is a connected person of the principal stockbroker.

(j) Legal Advisors (if any)—

(a) name;

(b) person(s) for contact with the competent authority; and

(c) copy of practising certificate.

(k) Banker(s)—

(a) name; and

(b) registered/business address in the Partner State where recognition is sought.

Legal Notice No. EAC/22/2015.

DIRECTIVE EAC/EX/CN29/DIRECTIVE 17
OF THE COUNCIL OF MINISTERS

OF

(29TH APRIL, 2014)

ON ADMISSION TO TRADING ON A SECONDARY EXCHANGE

PREAMBLE

The Council of Ministers of the East African Community

Having regard to the Treaty for the Establishment of the East African Community and in particular Articles 85 (d), 14(3) and 16;

WHEREAS Article 31 of the Protocol on the Establishment of the East African Community Common Market provides that for proper functioning of the Common Market the Partner States undertake to co-ordinate and harmonize their financial sector policies and regulatory frameworks to ensure the efficiency and stability of their financial systems as well as the smooth operations of the payment systems;

WHEREAS Article 47 of the Protocol on the Establishment of the East African Community Common Market provides that the Partner States shall undertake to approximate their national laws and to harmonize their policies and systems for purposes of implementing this Protocol and that the Council shall issue directives for the purposes of implementing this Article.

HAS ADOPTED THIS DIRECTIVE.

ARTICLE 1
INTERPRETATION

In this Directive, unless the context otherwise requires—

“applicant” means a broker/dealer which seeks to apply for admission to a secondary exchange;

“primary exchange” means the exchange in which a broker/ dealer has obtained its first admission as a member;

“secondary exchange” means the exchange in which a broker/dealer has obtained admission after its admission to the primary exchange.

“Secretary General” means the Secretary General of the Community appointed under Article 67 of the Treaty.

ARTICLE 2
PRINCIPLES

All exchanges shall adopt fair and transparent procedures with respect to access to trading rights by market participants.

ARTICLE 3
OBJECTIVE

The objective of this Directive is to provide for admission of brokers and dealers operating within the Community on a secondary exchange.

ARTICLE 4
SCOPE

This Directive shall apply to a licensed broker or dealer operating in more than one Partner State.

ARTICLE 5
ELIGIBLITY

1. An applicant for admission to a secondary exchange must be a member or a trading participant of any of the primary exchanges in the region.

2. The applicant must have a minimum paid up share capital as prescribed in the Council Directive on Licensing of Market Intermediaries.

3. The applicant shall demonstrate market presence in the market of the secondary exchange through a branch or office.

4. The applicant who has been in operation shall demonstrate satisfactory compliance history in its primary market as evidenced by a certificate of satisfactory compliance issued by that exchange.

5. The certificate of satisfactory compliance shall include the following information:

   (a) compliance with the Laws and Regulations of the primary exchange;

   (b) any disciplinary action taken and related sanctions;

   (c) any investigations whether concluded or on-going;

   (d) any market complaints levied against the applicant whether or not the said complaints were a subject of further investigations or not;

   (e) adequate staffing especially of key staff;

   (f) similar information in a) to e) above as may relate to any secondary exchange while considering the application for secondary admission; and

   (g) any other information that may be requested for by the secondary exchange while considering the application for secondary admission.

ARTICLE 6

APPLICATION REQUIREMENTS FOR ADMISSION ON A SECONDARY EXCHANGE

1. For admission on a secondary exchange, an applicant shall submit the following:

   (a) an application for admission;

   (b) admission fees if any; and

   (c) a certified copy of license from the competent authority.

ARTICLE 7

ADMISSION TO A SECONDARY EXCHANGE

1. Upon satisfaction of the above eligibility requirements and the submission of an application for admission in a manner prescribed by the secondary exchange, the applicant may be admitted to the secondary exchange and thereafter be referred to as a regional stock broker.

2. Upon admission to the secondary exchange, a regional stock broker shall be granted access to the trading platform of the secondary exchange and shall be bound by all the Rules of that Exchange as would be the case of any other member.

3. A regional stock broker will be entitled to perform any or all of the functions of broker or dealer as provided for under the EAC Council Directives on Licensing.

ARTICLE 8

COMPLIANCE AND SURVEILLANCE

In addition to the Rules that govern compliance and surveillance in its market, the secondary exchange may request for any pertinent compliance or surveillance information on the regional stock broker from any primary or secondary exchange, to complement its functions.

ARTICLE 9

DISCIPLINARY MATTERS

1. Primary markets that admit regional brokers shall share with all markets in which the regional broker operates, all pertinent information relating to disciplinary matters concerning the regional stock broker or any disciplinary action proposed or taken against the said regional broker.

2. The suspension of a regional stock broker from a primary exchange shall imply the automatic suspension of the said regional stock broker from all secondary exchanges, provided that the reinstatement of the said regional broker in the primary market shall not imply an automatic reinstatement in the secondary market.

3. The expulsion of a regional stock broker by a secondary exchange will lead to an immediate investigation of the stock broker by its primary exchange and may lead to similar action by any other secondary exchange.

4. The expulsion of a regional stock broker from a primary market shall imply the automatic expulsion of the said regional stock broker from all secondary exchanges.

5. Where a secondary market proposes to expel a regional stock broker from its membership, it shall only do so with the consultation of the primary market, provided that the expulsion of the regional broker from a secondary market may not lead to an automatic expulsion by the primary or other secondary market.

6. A regional stock broker shall, in the first instance, appeal against any disciplinary action taken against it to the Consultative Committee of East African Securities Association (EASEA), provided that the regional stock broker will not be precluded from seeking any other legal remedies available to it.

ARTICLE 10
AMENDMENTS

1. This Directive may be amended by the Council of Ministers.

2. Any proposals for amendment may be submitted in writing by the Partner States to the Secretary General for submission to the Council of Ministers.

ARTICLE 11
IMPLEMENTATION

Partner States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than one (1) year from the date of the Council of Ministers' approval. They shall forthwith inform the Council of Ministers thereof.

Legal Notice No. EAC/23/2015.

DIRECTIVE EAC/EX/CN29/DIRECTIVE 17
OF THE COUNCIL OF MINISTERS

OF

(*29TH APRIL, 2014*)

ON PUBLIC OFFERS (EQUITY) IN THE SECURITIES MARKET

PREAMBLE

The Council of Ministers of the East African Community

Having regard to the Treaty for the Establishment of the East African Community and in particular **Articles 85 (d), 14(3) and 16;**

WHEREAS Article 31 of the Protocol on the Establishment of the East African Community Common Market (Common Market Protocol) provides that for proper functioning of the Common Market the Partner States undertake to co-ordinate and harmonies their financial sector policies and regulatory frameworks to ensure the efficiency and stability of their financial systems as well as the smooth operations of the payment systems;

WHEREAS Article 47 of the Common Market Protocol provides that the Partner States shall undertake to approximate their national laws and to harmonize their policies and systems for purposes of implementing this Protocol and that the Council shall issue Directives for the purposes of implementing this Article.

HAS ADOPTED THIS DIRECTIVE.

PART 1
PRELIMINARY

ARTICLE 1
INTERPRETATION

In this Directive, unless the context otherwise requires—

"**Community**" means East African Community established by Article 2 of the Treaty;

"**Competent Authority**" means the National Regulatory Agency that is the primary supervising entity of securities markets in the Partner State;

"council of Ministers" means the Council of Ministers of the Community established by Article 9 of the Treaty;

"dematerialized security" means a book entry security which has been prescribed by a central depository whereby the underlying physical certificate is no longer recognized as *prima facie* evidence of ownership;

"**equity securities**" means:—

(a) shares in the share capital of a company ("shares");

(b) rhe rights under any depository receipt in respect of shares, and warrant ("depository receipts"); and

(c) any other instrument prescribed by a Competent Authority to be equity securities for the purposes of this Directive

but does not include –

(a) equity securities of a private company;

(b) bills of exchange;

(c) promissory notes;

(d) certificates of deposit issued by a bank; and

(e) any other instruments prescribed by a Competent Authority not to be equity securities for the purposes of this Directive.

"**green shoe option**" means a provision contained in an offer document that gives the issuer of the securities the right to sell to investors more securities than originally planned by the issuer in case of over subscription of securities, subject to a maximum percentage that shall be determined by the Competent Authorities from time to time;

"IFRS" means International Financial Reporting Standards.

An institutional or sophisticated or professional investor means—

(a) any person licensed under any financial services legislation applicable in the EAC region;

(b) any authorized or a recognized scheme by any financial services legislation applicable in the Community;

(c) an individual, either alone or with any of his associates on a joint account, having proven liquid assets worth $50,000 or its equivalent in any currency, and

(d) any company or partnership having proven liquid assets worth $100,000 or its equivalent in any currency;

"**local investor**" in relation to –

(a) An individual, means a natural person who is a citizen of any Partner State;

(b) A body corporate means a company or any other body corporate—

(i) established or incorporated under the Companies Act or under any written law of a Partner State;

(ii) registered under the Companies Act or under the provisions of any written law of a Partner State in which the citizens or the government of the Partner State have beneficial interests in more than fifty percent (50%) of its ordinary shares";

"**offer document**" means any prospectus, information memorandum, notice, circular, advertisement, or other invitation in print or electronic form containing information about an investment offering for sale to the public;

"Partner States" means the Republic of Uganda, the Republic of Kenya, the United Republic of Tanzania, the Republic of Rwanda and the Republic of Burundi and any other country granted membership to the Community under Article 3 of the Treaty;

"**public offers**" means a communication to the public or a section of the public in any form and by any means, presenting sufficient information on the terms of the offer and the securities to be offered, so as to enable a member of the public to decide to purchase or subscribe to these securities;

For purposes of this Directive, an offer of securities shall be regarded as private offer and accordingly shall be deemed not to be public offer in the Community if, to the extent that the offer is made to persons in the Community under the following conditions—

(a) the securities are offered to not more than one hundred persons who are professional investors or experienced investors where the securities are allotted as a result of an invitation or offer made personally to that person or those persons;

(b) the securities are offered to the members of a club or association (whether or not incorporated) and the members can reasonably be regarded as having a common interest with each other and with the club or association in the affairs of the club or association and in what is to be done with the proceeds of the offer;

(c) the securities are offered to a restricted circle of persons whom the offeror reasonably believes to be sufficiently knowledgeable to understand the risks involved in accepting the offer;

(d) the securities are offered in connection with a *bona fide* invitation to enter into an underwriting agreement with respect to them;

(e) the securities are of a private company and are offered by that company to—

(i) members and employees of the company and their families;

The members of a person's family are the person's parents, spouse, children, grand-children, and any trustee of a trust of which that person is the principal beneficiary.

(ii) a restricted circle of persons whom the offeror reasonably believes to be sufficiently knowledgeable to understand the risks involved in accepting the offer;

(f) the minimum subscription for securities per applicant is not less than USD 10,000;

(g) the securities result from the conversion of convertible securities and a prospectus relating to the convertible securities was approved by the Authority and published in accordance with this Directive;

(h) the securities of a listed company are offered in connection with a take-over scheme approved by the Competent Authority;

(i) an offer of securities where no consideration is paid or provided in respect of the issue or allotment of the securities; or

(j) the securities are not freely transferable.

"regional offer" means an offer of shares approved for issue in more than one jurisdiction in the Community;

"regulated market" means a securities exchange, stock exchange, derivatives exchange, futures exchange, commodities exchange, Over the Counter (OTC) markets or any other trading platform for securities that has been licensed or approved by a Competent Authority in any Partner State;

"Secretary General" means the Secretary General of the Community appointed under Article 67 of the Treaty;

"Treaty", means the Treaty for the Establishment of the East African Community and any Annexes and Protocols thereto.

ARTICLE 2
PRINCIPLES

1. In implementing this Directive, the Partner States shall respect the following principles:

(a) ensure confidence in capital markets by promoting high standards of transparency;

(b) provide investors with a wide range of competing investment opportunities and a level of disclosure and protection tailored to their circumstances;

(c) ensure that independent competent authorities enforce the rules consistently, especially as regards the fight against white-collar crime;

(d) encourage innovation in capital markets if they are to be dynamic and efficient;

(e) ensure systemic stability of the financial system by close and reactive monitoring of financial innovation;

(f) assist in reducing the cost of, and increasing access to capital;

(g) balance, on a long-term basis, the costs and benefits to market participants (including SMEs and small investors) of any implementing measures;

(h) foster the international competitiveness of the Community's financial markets;

(i) achieve a level playing field for all market participants by establishing Community legislation every time it is appropriate;

(j) respect differences in national financial markets where these do not unduly impinge on the coherence of the common market; and

(k) ensure coherence with other Community legislation in this area, as imbalances in information and a lack of transparency may jeopardize the operation of the markets and above all harm consumers and small investors.

2. The Partner States shall take into account technical developments on financial markets to ensure uniform application of this Directive.

3. The Partner States shall lay down a system of effective, proportional and dissuasive sanctions for breaches of the national laws adopted pursuant to this Directive and shall take all the measures necessary to ensure that these sanctions are applied.

ARTICLE 3
OBJECTIVE

The objective of this Directive is to harmonize the standards of public offers of securities in the securities markets of the Partner States with a view to;

(a) protecting investors,

(b) ensuring fair, efficient and transparent markets,

(c) reducing systemic risks,

(d) allowing for cross border public offers of securities to be made using a single set of disclosure standards/requirements; and

(e) allowing for multiple/simultaneous listings.

ARTICLE 4
SCOPE

This Directive shall only apply to public offers of equity securities to be approved for issuance in more than one Partner State.

PART II
REQUIREMENTS FOR PUBLIC OFFERS OF EQUITY SECURITIES

ARTICLE 5
LEGAL STATUS OF THE ISSUER

1. The issuer shall be a company formed or registered under the Companies Act of any one of the Partner States where the offer is to be made.

2. Where the issuer is not a company, then the issuer shall be duly established under a written law or be recognized under an international treaty.

ARTICLE 6
SECURITIES TO BE ISSUED IN DEMATERIALIZED FORM

1. All regional issues shall be in dematerialized form.

2. All securities must be deposited at a central depository established under a written law in any of the Partner States

ARTICLE 7
APPROVAL OF OFFER DOCUMENT

1. The issuer shall elect a jurisdiction within the Community in which the issuer shall lodge the offer document. The issuer shall simultaneously submit the offer document to Competent Authorities of other jurisdictions which the issuer proposes to raise capital.

2. The procedure for approval of the offer document shall be done in accordance with the Schedule.

3. Where the offer documents relate to an initial public offer, the Competent Authority shall notify the issuer, the offeror or the person acting on behalf of the issuer/ offeror, as the case may be, of its decision regarding the approval of the offer document within twenty (20) working days of the submission of the draft offer document.

4. Where the offer documents relate to any other offer that is not an initial public offer, the Competent Authority shall notify the issuer, the offeror or the person acting on behalf of the issuer/ offeror, as the case may be, of its decision regarding the approval of the offer document within ten (10) working days of the submission of the draft offer document.

5. If the Competent Authority finds that the documents submitted are incomplete or that supplementary information is needed, the time limits referred to in paragraphs 3 and 4 shall apply only from the date on which such information is provided by the issuer, the offeror or the person asking for admission to trading on a regulated market. In the case referred to in paragraph 2 the Competent Authority shall notify the issuer if the documents are incomplete within ten working days of the submission of the application.

ARTICLE 8
PUBLICATION OF AN OFFER DOCUMENT

1. No offer document shall be published until it has been approved by the Competent Authority in the elected Partner State.

2. Once approved, the offer document shall be filed with the Competent Authorities of all the Partner States where the offer is to be made and shall be made available to the public by the issuer, offeror or person asking for approval for offer prior to the commencement of the offer period to the public.

ARTICLE 9
CONTENTS OF AN OFFER DOCUMENT

1. The offer document shall contain all information which, according to the particular nature of the issuer and of the equity securities offered to the public or admitted to trading on a regulated market to enable investors to make an informed assessment of the securities on offer.

2. Without prejudice to paragraph 1, the offer document shall contain the following information:
   (a) financial statements;
   (b) prospects of the issuer;
   (c) the rights attaching to such securities;
   (d) legal opinion;
   (e) risk factors;
   (f) information relating to directors and top management;
   (g) caution statement;
   (h) information on bankers,
   (i) information on underwriters, if any;
   (j) offer statistics and timetable;
   (k) material contracts;
   (l) major shareholders and related party transactions;
   (m) details of the professional parties; and
   (n) use of proceeds.

This information shall be presented in a form which is easy to comprehend and analyze.

3. The offer document shall also be accompanied by the following information:
   (a) audited financial statements (for at least three years);
   (b) memorandum and articles of association of the issuer;
   (c) required authorizations for:
      (i) the shareholders;
      (ii) board and other parties, and
   (d) proposed underwriting agreements.

4. All offer documents for offers of equity securities in the Community shall contain the following statement on its front page. ***"As a matter of policy, the Competent Authorities assume no responsibility for the correctness of any statements or opinions made or reports contained in this offer document. Approval of the issue and/or listing is not to be taken as an indication of the merits of the issuer or of the securities"***.

ARTICLE 10
PERSONS RESPONSIBLE FOR AN OFFER DOCUMENT

1 The persons who are responsible for an offer document are the following:

(a) the issuer of the equity securities to which the offer document relates;

(b) where the issuer is a body corporate, each person who is a director of that body corporate at the time when the offer document is published;

(c) where the issuer is a body corporate, each person who has given his consent to be named and is so named in the offer document as a director or as having agreed to become a director of that body corporate either immediately or at a future time;

(d) each person who accepts, and is stated in the offer document as accepting, responsibility for, or for any part of, the offer document;

(e) the offeror of the securities, where the offeror is not the issuer;

(f) where the offeror is a body corporate, but is not the issuer and is not making the offer in association with the issuer, each person who is a director of that body corporate at the time when the offer document is published; and

(g) each person not falling within any of the foregoing paragraphs who has authorized the contents of, or of any part of, the offer document.

2 Notwithstanding paragraph 1, a person shall not be responsible for an offer document:–

(a) under paragraphs 1(a), (b) or (c), unless the issuer has made or authorized the offer in relation to which the offer document is published;

(b) under paragraph1(b), if such offer document is published without his knowledge or consent and on becoming aware of its publication, he or she forthwith gives reasonable notice to the public and to the Authority that the offer document was published without his or her knowledge or consent;

3 Where a person has accepted responsibility for, or authorized, only part of the contents of any offer document, he shall be responsible under paragraph 1(d) or (g) only for that part and only if it is included or substantially included in the form and context to which he has agreed.

ARTICLE 11
OMISSION OF INFORMATION

1. Partner States shall ensure that where the final offer price and amount of equity securities which will be offered to the public have not been included in the offer document:

(a) the criteria, and/or conditions in accordance with which the above elements will be determined or, in the case of price, the maximum price, are disclosed in the offer document; or

(b) the acceptances of the purchase or subscription of securities may be withdrawn for not less than two (2) working days after the final offer price and amount of securities which will be offered to the public have been filed.

2. The final offer price and amount of securities shall be filed with the Competent Authority of the elected Partner State and published in accordance with the arrangements provided for in Article 14(2).

3. The Competent Authority of the elected Partner State may, in consultation with other Competent Authorities, authorise the omission from the offer document of certain information provided for in this Directive, if it considers any of the following:

(a) disclosure of such information would be contrary to the public interest;

(b) disclosure of such information would be seriously detrimental to the issuer, provided that the omission would not be likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer, offeror or guarantor, if any, and of the rights attached to the securities to which the offer document relates;

(c) such information is of minor importance only for a specific offer or admission to trading on a regulated market and is not such as will influence the assessment of the financial position and prospects of the issuer, offeror or guarantor, if any.

4. Without prejudice to the adequate information of investors, where, exceptionally, certain information required by this Directive to be included in an offer document is inappropriate to the issuer's sphere of activity or to the legal form of the issuer or to the securities to which the offer document relates, the offer document shall contain information equivalent to the required information. If there is no such information, this requirement shall not apply.

ARTICLE 12
VALIDITY OF AN OFFER DOCUMENT

An offer document shall be valid for twelve (12) months after its publication for offers to the public or admissions to trading on a regulated market, provided that the offer document is updated by any supplementary information required pursuant to Article 14.

ARTICLE 13
CONTINUING OBLIGATIONS

1. All issuers shall file an annual report with the Competent Authority in each Partner State that contains or refers to all information that they have published or made available to the public over the preceding twelve (12) months in one or more Partner States and in countries outside the Community in compliance with their obligations under national laws and rules dealing with the regulation of securities, issuers of securities and securities markets.

2. Where the document refers to information, it shall be stated where the information can be obtained.

ARTICLE 14
SUPPLEMENTARY OFFER DOCUMENT

1. Every significant new factor, material error or inaccuracy relating to the information included in the offer document which is capable of affecting the assessment of the securities and which arises or is noted between the time when the offer document is approved and the final closing of the offer to the public or, as the case may be, the time when trading on a regulated market begins, whichever occurs later, shall be mentioned in a supplement to the offer document. Such a supplement shall be approved in the same way in a maximum of seven (7) working days and published in accordance with at least the same arrangements as were applied when the original offer document was published. Any translations thereof shall also be supplemented, if necessary, to take into account the new information included in the supplement.

2. Where the offer document relates to a public offer, investors who have already agreed to purchase or subscribe for the securities before the supplement is published shall have the right, exercisable within two (2) working days after the publication of the supplement, to withdraw their acceptances, provided that the new factor, mistake or inaccuracy referred to in paragraph 1 arose before the final closing of the offer to the public and the delivery of the securities. That period may be extended by the issuer or the offeror. The final date of the right of withdrawal shall be stated in the supplement.

ARTICLE 15
ADVERTISEMENTS

1. Any type of advertisements relating either to an offer to the public of equity securities or to an admission to trading on a regulated market shall observe the principles contained in paragraphs 2 to 5 of this Article. Paragraphs 2 to 4 shall apply only to cases where the issuer, the offeror or the person applying for admission to trading is covered by the obligation to draw up an offer document.

2. Advertisements shall state that an offer document has been or will be published and indicate where investors can obtain it or will be able to obtain it.

3. Advertisements shall be clearly recognisable as such. The information contained in an advertisement shall not be inaccurate, or misleading. This information shall also be consistent with the information contained in the offer document, if already published, or with the information required to be in the offer document, if the offer document is published afterwards.

4. In any case, all information concerning the offer to the public or the admission to trading on a regulated market disclosed in an oral or written form, even if not for advertising purposes, shall be consistent with that contained in the offer document.

5. When according to this Directive no offer document is required, material information provided by an issuer or an offeror and addressed to qualified investors or special categories of investors, including information disclosed in the context of meetings relating to offers of equity securities, shall be disclosed to all qualified investors or special categories of investors to whom the offer is exclusively addressed. Where an offer document is required to be published, such information shall be included in the offer document or in a supplement to the offer document in accordance with Article 14(1).

6. The Competent Authority of the home Partner State shall have the power to exercise control over the compliance of advertising activity, relating to a public offer of equity securities or an admission to trading on a regulated market, with the principles referred to in paragraphs 2 to 5.

ARTICLE 16
FEES

1. Each Competent Authority approving the issue shall get an equal share of the evaluation fees of 0.1% of the value of the issue. At all times the evaluation fees shall be a maximum of USD 200,000 and a minimum of USD 20,000.

2. Evaluation fees shall be paid at the time of application to the Competent Authority of the elected Partner State. It shall be the duty of the elected Competent Authority to transfer to the other Competent Authorities in each partner State their share of the evaluation fees paid. In the event of a rejection, the issuer shall forfeit 25% of the evaluation fee paid.

ARTICLE 17
ALLOTMENT CRITERIA

The offer document shall provide the allocation criteria indicating the percentage reserved for local and foreign investors respectively.

ARTICLE 18
LANGUAGES

An offer document shall made be in the English language.

ARTICLE 19
INFORMATION SHARING AND CONFIDENTIALITY

1. Competent Authorities of Partner States shall cooperate with each other whenever necessary for the purpose of carrying out their duties and exercising their powers under this Directive. Competent Authorities shall render assistance to Competent Authorities of other Partner State.

2. Competent Authorities may share confidential information. Information thus exchanged shall be covered by the obligation of confidentiality.

ARTICLE 20
LISTING

1. Listing shall be mandatory for all regional offers of equity securities that are to be offered to the public or a section of the public.

2. However, offers targeted at institutional or sophisticated investors may trade on a regulated OTC market.

ARTICLE 21
PROFESSIONAL PARTIES

An issuer of equity securities in the Community shall comply with the following requirements relating to appointment of professional parties:

(a) a transaction Advisor/placing agent/sponsoring stockbroker shall be a corporate body licensed by a Competent Authority;

(b) A reporting accountant who shall be subject to the requirements of their professional bodies. The reporting accountant shall be a firm registered in any Partner State.

(c) A legal adviser who shall be subject to the requirements of their professional bodies. The legal advisers shall be a firm registered in any Partner State;

(d) A paying and receiving bank which shall be a bank licensed in the Partner States where funds are being raised. The issuer shall determine the number of receiving banks.

(e) A share registrar.

ARTICLE 22
DENOMINATION OF OFFER

An issuer shall determine the currency and denomination for the issue.

PART III

DISCLOSURE REQUIREMENTS FOR PUBLIC OFFERS OF EQUITY SECURITIES

ARTICLE 23
TRADING, CLEARING AND SETTLEMENT

An issuer of equity securities in the Community shall comply with the Directives on Exchanges and Central Securities Depositories. However, offers targeted at institutional or sophisticated investors may trade on a regulated OTC market.

ARTICLE 24
MINIMUM PAID-UP SHARE CAPITAL AND MINIMUM NET ASSETS

The minimum paid-up share capital shall be the local currency equivalent of [USD 1,000,000] and the net assets shall be the local currency equivalent of [USD 1,700,000].

ARTICLE 25
TRACK RECORD

Issuers shall comply with track record requirements in the Listing Directive.

ARTICLE 26
FINANCIAL STATEMENTS

An issuer shall provide audited financial statements complying with IFRS for the three (3) years preceding the offer. Where the audited financial statements are in respect with a period of not more than six (6) months before the date of the offer documents, unaudited financial statements relating to a period not longer than ninety (90) days from the date of the offer documents shall be submitted.

ARTICLE 27
MINIMUM SIZE OF REGIONAL EQUITY SECURITIES ISSUE

The minimum size of an issue of regional equity securities shall be as determined by the issuer.

ARTICLE 28
CONTINUOUS DISCLOSURE OBLIGATIONS

1. Every issuer shall comply with the continuous disclosure obligations in the listing Directive.

2. Every issuer shall keep updated the Competent Authority and the Stock Exchange on which it is listed, of any information relating to the issuer and its subsidiaries if any that:

   (a) is necessary to enable them and the public to appraise the financial position of the issuer and its subsidiaries; or

   (b) might reasonably be expected materially to affect market activity or the price of the debt securities of or otherwise affect its subsidiaries.

3. Notwithstanding paragraph 2, notification of the information is not required, where:

   (a) it would be a breach of the law to disclose the information;

   (b) the information concerns an incomplete proposal of negotiations;

   (c) the information comprises matters of supposition or is insufficient definite such that it would be misleading to the market for it to be disclosed;

   (d) the information is generated solely for the purpose of the internal management of the issuer and its advisers; or

   (e) the information is a trade secret.

ARTICLE 29
ADDITIONAL ISSUES

1. An issuer may raise additional capital in a Partner State by issuing a short form offer document.

2. The short form offer document shall contain a summary of information on the issuer, business of the company, rights of shareholders, use of proceeds, applicable tax, nature of the offer, risk factors, transaction advisors, financial statement, applicable law, dispute resolution mechanism.

3. Notwithstanding that an issuer has made a regional offer of equity securities, the issuer may at any time raise additional capital in any one jurisdiction pursuant to a short form offer document updating the disclosures in the original offer document.

ARTICLE 30
TRANSFER OF SHARES

The shares offered shall be freely transferrable.

ARTICLE 31
SANCTIONS

1. Without prejudice to the right of Partner States to impose criminal sanctions and without prejudice to their civil liability regime, Partner States shall ensure, in conformity with their national law, that the appropriate administrative measures can be taken or administrative sanctions be imposed against the persons responsible, where the provisions adopted in the implementation of this Directive have not been complied with. Partner States shall ensure that these measures are effective, proportionate and dissuasive.

2. The Partner States shall provide in their national law, that the Competent Authority may disclose to the public every measure or sanction that has been imposed for infringement of the provisions adopted pursuant to this Directive, unless the disclosure would seriously jeopardize the financial markets or cause disproportionate damage to the parties involved.

ARTICLE 32
RIGHT OF APPEAL

The Partner States shall ensure that decisions taken pursuant to laws, regulations and administrative provisions adopted in accordance with this Directive are subject to the right of appeal to the courts.

ARTICLE 33
AMENDMENTS

1. This Directive may be amended by the Council of Ministers.

2. Any proposals for amendment may be submitted in writing by the Partner States to the Secretary General for submission to the Council of Ministers.

ARTICLE 34
TRANSPOSITION

The Partner States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than one year from the date of the Council of Ministers' approval. They shall forthwith inform the Council of Ministers thereof.

ARTICLE 35
DISPUTE RESOLUTION

1. The law in force in the jurisdiction where a cause of action arises shall apply in case of a dispute between an investor and an intermediary or between an issuer and an intermediary.

2. The information memorandum shall specify the applicable law and mode of dispute resolution where a dispute involves the issuer and an investor.

SCHEDULE

OFFER DOCUMENT APPROVAL PROCEDURE FOR ISSUANCE OF REGIONAL EQUITY SECURITIES

1. The issuer shall elect a jurisdiction within the Community in which the issuer shall lodge the offer document. The issuer shall simultaneously submit the offer document to the Competent Authorities of other Partner States in which the issuer proposes to raise capital.

2. Where an incomplete or unmeritorious *ab initio* application has been lodged, the Competent Authority of the elected Partner State shall have the discretion to reject the application in whole and inform the other Competent Authorities of such rejection and the reasons thereof. In the event of a rejection and the issuer wishes to proceed with the issuance, the issuer shall be required to lodge the application afresh in all Partner States and be liable to pay any application costs attaching thereto.

3. Each Competent Authority shall apply the eligibility and disclosure requirements for issuance of regional equity securities in this Directive for purposes of assessing the application.

4. In the event that any Competent Authority seeks to interpret the applicability of any provision of the eligibility and disclosure requirements, that Competent Authority shall officially communicate with all other Competent Authorities to determine the manner in which that matter will be addressed and the majority opinion shall prevail.

5. Where a Competent Authority has communicated with the other Competent Authorities in accordance with paragraph 4, the Competent Authorities consulted shall revert within five working days of the receipt of communication and the final position shall be communicated to the issuer within ten days and copied to all Competent Authorities.

6. The other Competent Authorities shall submit any comments on the Offer Document to the elected Competent Authority for consolidation for communication to the issuer. Where the elected Competent Authority proposes to exclude certain matters from communication to the issuer, it shall communicate its intention to the other Competent Authorities, which action shall be subject to the timelines for communication under paragraph 5.

7. The elected Competent Authority shall, upon completion of its review, submit the same for consideration and approval by its relevant Competent Authority in accordance with its applicable procedures for approval of offers to the public, provided that the submission shall not be made later than five working days following the receipt of the complying document from the issuer.

8. In the event of an approval, the elected Competent Authority shall issue a letter to all other Competent Authorities communicating its approval and confirming that the issue complies with the regional criteria.

9. In the event of the grant of an approval of the issue, the elected Competent Authority shall provide a copy of the letter of approval and details of any conditions imposed on that approval to all the other Competent Authorities. This approval will not be communicated to the issuer pending circulation and determination by the other Competent Authorities.

10. Upon receipt of a copy of the approval letter from the elected Competent Authority, every Competent Authority which is in receipt of the Offer Document shall submit the final Offer Document together with the elected Competent Authority's approval letter to their respective authorities for consideration and determination:

    Provided that such submission shall not be made later than five working days following the receipt of the elected Competent Authority's decision as per the approval timetable set out in this Annexture.

11. In the event that approval is declined, the elected Competent Authority shall provide a copy of the reasons for such decision to all other Competent Authorities for their consideration. The elected Competent Authority shall specify where the approval has been withheld for reasons other than those in the criteria set down for regional issues. Where a rejection occurs for reasons other than failure to comply with the regional guidelines, the other Competent Authorities shall retain full statutory discretion to approve or reject the application placed before it notwithstanding any approval or rejection by the elected Competent Authority.

12. For the purposes of coordination, the approving Competent Authorities shall engage with any listing exchange in their jurisdiction to ensure compliance by the issuer with any reporting and disclosure obligations issued by the Competent Authority and the securities exchange.

13. In so far the issuer has raised capital in a particular Partner State; the elected Competent Authority shall be responsible for the supervision of that issuer in respect of that issue.

14. Where an imbalance in information disclosure occurs, the Competent Authorities shall coordinate any action with any relevant securities exchanges or trading platforms on which the equity securities in question are traded to mitigate the negative impacts of such information asymmetry on investors.

15. Any changes or interpretations made to this Schedule or the Approval Procedure shall be published by all the Partner States.

Approval Timetable

T: Complying application lodged with all the Competent Authorities.

T+ 10 Days: All comments from Competent Authorities lodged with the elected Competent Authority.

T + 15 Days: All areas for consultation for interpretation resolved.

T+ 20 Days: All issues communicated to the issuer.

Y+ 10: elected Competent Authority board determination (primary board may approve with conditions) and issues letter of comfort.

Y+ 15 Days: All other Competent Authorities' board determination (decisions may be conditional indicating matters to be addressed).

Y+ 17 Days: Communication of Competent Authorities' decision to issuer.

"Day" means a business day.

Where

T = The date application is lodged with the elected Competent Authority; and

Y = The date on which the issuer reverts with complying documents.

Legal Notice No. EAC/24/2015.

DIRECTIVE EAC/EX/CN29/DIRECTIVE 17
OF THE COUNCIL OF MINISTERS

OF

(*29TH APRIL, 2014*)

ON PUBLIC OFFERS (DEBT) IN THE SECURITIESMARKET

PREAMBLE

The Council of Ministers of the East African Community

Having regard to the Treaty for the Establishment of the East African Community and in particular **Articles 85 (d), 14(3) and 16;**

WHEREAS Article 31 of the Protocol on the Establishment of the East African Community Common Market (Common Market Protocol) provides that for proper functioning of the Common Market the Partner States undertake to co-ordinate and harmonies their financial sector policies and regulatory frameworks to ensure the efficiency and stability of their financial systems as well as the smooth operations of the payment systems;

WHEREAS Article 47 of the Common Market Protocol provides that the Partner States shall undertake to approximate their national laws and to harmonize their policies and systems for purposes of implementing this Protocol and that the Council shall issue directives for the purposes of implementing this Article.

HAS ADOPTED THIS DIRECTIVE.

PART I
PRELIMINARY

ARTICLE 1
INTERPRETATION

(a) In this Directive, unless the context otherwise requires—

"**Community**" means East African Community established by Article 2 of the Treaty;

"**Competent Authority**" means the National Regulatory Agency that is the primary supervising entity of securities markets in the Partner State;

"Council of Ministers" means the Council of Ministers of the Community established by Article 9 of the Treaty;

"**debt securities**" means:—

(a) any instrument creating or acknowledging indebtedness which is issued or proposed to be issued ("debt securities");

(b) loan stock, bonds and other instruments creating or acknowledging indebtedness by or on behalf of Government, Central Bank, local authority or public authority ("Government and public entities");

(c) any right, whether conferred by warrant or otherwise, to subscribe for debt securities ("warrants");

(d) the rights under any depositary receipt in respect of debt securities and warrants ("depository receipts"); and

(e) any other instrument prescribed by a Competent Authority to be debt securities for the purposes of this Directive.

but does not include –

(f) bills of exchange;

(g) promissory notes;

(h) certificates of deposit issued by a bank;

(i) any other instrument prescribed by a Competent Authority not to be debt securities for the purposes of this Directive, and

(j) an offer of shares approved for issue in more than one jurisdiction in Community, shall be considered a regional offer.

“dematerialized security” means a book entry security which has been prescribed by a central depository whereby the underlying physical certificate is no longer recognized as *prima facie* evidence of ownership;

“**green shoe option**” means a provision contained in an offer document that gives the issuer of the securities the right to sell to investors more securities than originally planned by the issuer in case of over subscription of securities, subject to a maximum percentage that shall be determined by the Competent Authorities from time to time;

“IFRS” means International Financial Reporting Standards;

“institutional or sophisticated or professional investor” means –

(a) any person licensed under any financial services legislation applicable in the Community;

(b) any authorized or a recognized scheme by any financial services legislation applicable in the Community;

(c) an individual, either alone or with any of his associates on a joint account, having proven liquid assets worth $50,000 or its equivalent in any currency;

(d) any company or partnership having proven liquid assets worth $100,000 or its equivalent in any currency;

“**local investor**” in relation to –

(a) an individual, means a natural person who is a citizen of any Partner State;

(b) a body corporate means a company or any other body corporate

(i) established or incorporated under the Companies Act or under any written law of a Partner State

(ii) registered under the Companies Act or under the provisions of any written law of a Partner State in which the citizens or the government of the Partner State have beneficial interests in more than fifty percent (50%) of its ordinary shares”.

“**offer document**” means any prospectus, information memorandum, notice, circular, advertisement, or other invitation in print or electronic form containing information about an investment offering for sale to the public;

“Partner States” means the Republic of Uganda, the Republic of Kenya, the United Republic of Tanzania, the Republic of Rwanda and the Republic of Burundi and any other country granted membership to the Community under Article 3 of the Treaty;

“**public offers**” means a communication to the public or a section of the public in any form and by any means, presenting sufficient information on the terms of the offer and the securities to be offered, so as to enable a member of the public to decide to purchase or subscribe to these securities;

(b) For purposes of this Directive, an offer of securities shall be regarded as private offer and accordingly shall be deemed not to be public offer in the Community if, to the extent that the offer is made to persons in the Community under the following conditions—

(a) the securities are offered to not more than one hundred persons who are professional investors or experienced investors where the securities are allotted as a result of an invitation or offer made personally to that person or those persons;

(b) the securities are offered to the members of a club or association, whether or not incorporated, and the members can reasonably be regarded as having a common interest with each other and with the club or association in the affairs of the club or association and in what is to be done with the proceeds of the offer;

(c) the securities are offered to a restricted circle of persons whom the offeror reasonably believes to be sufficiently knowledgeable to understand the risks involved in accepting the offer;

(d) the securities are offered in connection with a *bona fide* invitation to enter into an underwriting agreement with respect to them;

(e) the securities are of a private company and are offered by that company to—

(i) members and employees of the company and their families;

(f) the minimum subscription for securities per applicant is not less than USD 10,000;

(g) the securities result from the conversion of convertible securities and a prospectus relating to the convertible securities was approved by the Competent Authority and published in accordance with this Directive;

(h) the securities of a listed company are offered in connection with a take-over scheme approved by the Competent Authority;

(i) an offer of securities where no consideration is paid or provided in respect of the issue or allotment of the securities; or

(j) the securities are not freely transferable.

“regional offer” means an offer of shares approved for issue in more than one jurisdiction in the Community.

“regulated market” means a securities exchange, stock exchange, derivatives exchange, futures exchange, commodities exchange, Over the Counter (OTC) markets or any other trading platform for securities that has been licensed or approved by a Competent Authority in any Partner State.

“Secretary General” means the Secretary General of the Community appointed under Article 67 of the Treaty.

“Treaty”, means the Treaty for the Establishment of the East African Community and any Annexes and Protocols thereto.

ARTICLE 2
PRINCIPLES

1. In implementing this Directive, the Partner States shall respect the following principles:

(a) ensure confidence in capital markets by promoting high standards of transparency;

(b) provide investors with a wide range of competing investment opportunities and a level of disclosure and protection tailored to their circumstances;

(c) ensure that independent Competent Authorities enforce the rules consistently, especially as regards the fight against white-collar crime;

(d) encourage innovation in capital markets if they are to be dynamic and efficient;

(e) ensure systemic stability of the financial system by close and reactive monitoring of financial innovation;

(f) assist in reducing the cost of, and increasing access to capital;

(g) balance, on a long-term basis, the costs and benefits to market participants (including SMEs and small investors) of any implementing measures;

(h) foster the international competitiveness of the Community’s financial markets;

(i) achieve a level playing field for all market participants by establishing Community legislation every time it is appropriate;

(j) respect differences in national financial markets where these do not unduly impinge on the coherence of the common market; and

(k) ensure coherence with other Community legislation in this area, as imbalances in information and a lack of transparency may jeopardize the operation of the markets and above all harm consumers and small investors.

2. The Partner States shall take into account technical developments in financial markets to ensure uniform application of this Directive.

3. The Partner States shall lay down a system of effective, proportional and dissuasive sanctions for breaches of the national laws adopted pursuant to this Directive and shall take all the measures necessary to ensure that these sanctions are applied.

ARTICLE 3
OBJECTIVE

The objective of this Directive is to harmonize the standards of public offers of securities in the securities markets of the Partner States with a view to:

(a) protecting investors;

(b) ensuring fair, efficient and transparent markets;

(c) reducing systemic risks;

(d) allowing for cross border public offers of securities to be made using a single set of disclosure standards or requirements, and

(e) allowing for multiple or simultaneous listings.

ARTICLE 4
SCOPE

1. This Directive shall only apply to public offers of debt securities to be approved for issuance in more than one Partner State.

2. Debt securities issued by a Partner State, the East African Central Bank or the Central Banks of the Partner States shall not be covered by this Directive.

3. Notwithstanding paragraph 2, issuers of debt securities under that paragraph may prepare an offer document in accordance with this Directive.

PART II
REQUIREMENTS FOR PUBLIC OFFERS OF DEBT SECURITIES

ARTICLE 5
LEGAL STATUS OF THE ISSUER

1. The issuer shall be a company formed or registered under the Companies Act of any one of the Partner States where the offer is to be made.

2. Where the issuer is not a company, then the issuer shall be duly established under a written law or be recognized under an international treaty.

ARTICLE 6
SECURITIES TO BE ISSUED IN DEMATERIALIZED FORM

1. All regional issues shall be in dematerialized form.

2. All securities must be deposited at a central depository established under a written law in any of the Partner States

ARTICLE 7
APPROVAL OF OFFER DOCUMENT

1. The issuer shall elect a jurisdiction within the Community in which the issuer shall lodge the offer document. The issuer shall simultaneously submit the offer document to the Competent Authorities of other jurisdictions which the issuer proposes to raise capital.

2. The procedure for approval of the offer document shall be done in accordance with the Schedule.

3. Where the offer documents relate to a new issue, the Competent Authority shall notify the issuer, the offeror or the person acting on behalf of the issuer/ offeror, as the case may be, of its decision regarding the approval of the offer document within twenty (20) working days of the submission of the draft offer document.

4. Where the offer documents relate to any other offer that is not new issue, the Competent Authority shall notify the issuer, the offeror or the person acting on behalf of the issuer/ offeror, as the case may be, of its decision regarding the approval of the offer document within ten (10) working days of the submission of the draft offer document.

5. If the Competent Authority finds that the documents submitted are incomplete or that supplementary information is needed, the time limits referred to in paragraphs 3 and 4 shall apply only from the date on which such information is provided by the issuer, the offeror or the person asking for approval of the offer document. In the case referred to in paragraph 3 the Competent Authority shall notify the issuer if the documents are incomplete within ten (10) working days of the submission of the application.

ARTICLE 8
PUBLICATION OF AN OFFER DOCUMENT

1. No offer document shall be published until it has been approved by the Competent Authority in the elected Partner State.

2. Once approved, the offer document shall be filed with the Competent Authorities of all the Partner States where the offer is to be made and shall be made available to the public by the issuer, offeror or person asking for approval for offer prior to the commencement of the offer period to the public.

ARTICLE 9
CONTENTS OF AN OFFER DOCUMENT

1. The offer document shall contain all information which, according to the particular nature of the issuer and of the debt securities offered to the public or admitted to trading on a regulated market to enable investors to make an informed assessment of the securities on offer.

2. Without prejudice to paragraph 1, the offer document shall contain the following information:

(a) financial statements;
(b) prospects of the issuer;
(c) the rights attaching to such securities;
(d) legal opinion;
(e) risk factors;
(f) information relating to directors and top management;
(g) caution statement;
(h) information on bankers,
(i) information on guarantors, if any;
(j) offer statistics and timetable;
(k) material contracts;
(l) major shareholders and related party transactions;
(m) details of the professional parties; and
(n) use of proceeds.

3. The offer document shall also be accompanied by the following information:

(a) audited financial statements (for at least three years);

(b) memorandum and articles of association of the issuer;

(c) required authorizations for:

(i) the shareholders;

(ii) board and other parties, and

(d) proposed underwriting agreements.

4. All offer documents for offers of debt securities in the Community shall contain the following statement on its front page. ***"As a matter of policy, the Competent Authorities assume no responsibility for the correctness of any statements or opinions made or reports contained in this offer document. Approval of the issue and/or listing is not to be taken as an indication of the merits of the issuer or of the securities"***.

ARTICLE 10
PERSONS RESPONSIBLE FOR AN OFFER DOCUMENT

1. The persons who are responsible for an offer document are the following:

   (a) the issuer of the debt securities to which the offer document relates;

   (b) where the issuer is a body corporate, each person who is a director of that body corporate at the time when the offer document is published;

   (c) where the issuer is a body corporate, each person who has given his consent to be named and is so named in the offer document as a director or as having agreed to become a director of that body corporate either immediately or at a future time;

   (d) each person who accepts, and is stated in the offer document as accepting, responsibility for, or for any part of, the offer document;

   (e) the offeror of the securities, where the offeror is not the issuer;

   (f) where the offeror is a body corporate, but is not the issuer and is not making the offer in association with the issuer, each person who is a director of that body corporate at the time when the offer document is published; and

   (g) each person not falling within any of the foregoing paragraphs who has authorized the contents of, or of any part of, the offer document.

2. Notwithstanding paragraph 1, a person shall not be responsible for an offer document:

   (a) under paragraph 1(a), (b) or (c), unless the issuer has made or authorized the offer in relation to which the offer document is published;

   (b) under paragraph1(b), if such offer document is published without his or her knowledge or consent and on becoming aware of its publication, he or she forthwith gives reasonable notice to the public and to the Authority that the offer document was published without his knowledge or consent.

3. Where a person has accepted responsibility for, or authorized, only part of the contents of any offer document, he or she shall be responsible under paragraph 1(d) or (g) only for that part and only if it is included or substantially included in the form and context to which he or she has agreed.

ARTICLE 11
OMISSION OF INFORMATION

1. Partner States shall ensure that where the final offer price and amount of debt securities which will be offered to the public have not been included in the offer document:

   (a) the criteria, and/or conditions in accordance with which the above elements will be determined or, in the case of price, the maximum price, are disclosed in the offer document; or

   (b) the acceptances of the purchase or subscription of securities may be withdrawn for not less than two (2) working days after the final offer price and amount of securities which will be offered to the public have been filed.

2. The final offer price and amount of securities shall be filed with the Competent Authority of the elected Partner State and published in accordance with the arrangements provided for in Article 14(2).

3. The Competent Authority of the elected Partner State may, in consultation with other Competent Authorities, authorise the omission from the offer document of certain information provided for in this Directive, if it considers any of the following:

(a) disclosure of such information would be contrary to the public interest;

(b) disclosure of such information would be seriously detrimental to the issuer, provided that the omission would not be likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer, offeror or guarantor, if any, and of the rights attached to the securities to which the offer document relates;

(c) such information is of minor importance only for a specific offer or admission to trading on a regulated market and is not such as will influence the assessment of the financial position and prospects of the issuer, offeror or guarantor, if any.

4. Without prejudice to the adequate information of investors, where, exceptionally, certain information required by this Directive to be included in an offer document is inappropriate to the issuer's sphere of activity or to the legal form of the issuer or to the securities to which the offer document relates, the offer document shall contain information equivalent to the required information. If there is no such information, this requirement shall not apply.

ARTICLE 12
VALIDITY OF AN OFFER DOCUMENT AND SHELF REGISTRATION

1. A Competent Authority may approve an offer document which upon approval shall be valid for the term of the issue.

2. For any subsequent offers under a tranche programme, the issuer shall be required to file a separate pricing supplement in addition to the requirements under article 14 of this Directive.

3. A Shelf registration approved by a Competent Authority for a new offer of securities shall be valid for three years before the actual public offer. The issuer shall be required to file annual reports.

ARTICLE 13
CONTINUING OBLIGATIONS

1. All issuers shall file an annual report with the Competent Authority in each Partner State that contains or refers to all information that they have published or made available to the public over the preceding twelve (12) months in one or more Partner States and in countries outside the Community in compliance with their obligations under national laws and rules dealing with the regulation of securities, issuers of securities and securities markets.

2. Where the document refers to information, it shall be stated where the information can be obtained.

ARTICLE 14
SUPPLEMENTARY OFFER DOCUMENT

1. Every significant new factor, material mistake or inaccuracy relating to the information included in the offer document which is capable of affecting the assessment of the securities and which arises or is noted between the time when the offer document is approved and the final closing of the offer to the public or, as the case may be, the time when trading on a regulated market begins, whichever occurs later, shall be mentioned in a supplement to the offer document. Such a supplement shall be approved in the same way in a maximum of seven (7) working days and published in accordance with at least the same arrangements as were applied when the original offer document was published. Any translations thereof shall also be supplemented, if necessary, to take into account the new information included in the supplement.

2. Where the offer document relates to an offer of debt securities to the public, investors who have already agreed to purchase or subscribe for the securities before the supplement is published shall have the right, exercisable within two working days after the publication of the supplement, to withdraw their acceptances, provided that the new factor, mistake or inaccuracy referred to in paragraph 1 arose before the final closing of the offer to the public and the delivery of the securities. That period may be extended by the issuer or the offeror. The final date of the right of withdrawal shall be stated in the supplement.'

ARTICLE 15
ADVERTISEMENTS

1. Any type of advertisements relating either to an offer to the public of debt securities or to an admission to trading on a regulated market shall observe the principles contained in paragraphs 2 to 5 of this Article. Paragraphs 2 to 4 shall apply only to cases where the issuer, the offeror or the person applying for admission to trading is covered by the obligation to draw up an offer document.

2. Advertisements shall state that an offer document has been or will be published and indicate where investors can obtain it or will be able to obtain it.

3. Advertisements shall be clearly recognisable as such. The information contained in an advertisement shall not be inaccurate, or misleading. This information shall also be consistent with the information contained in the offer document, if already published, or with the information required to be in the offer document, if the offer document is published afterwards.

4. In any case, all information concerning the offer to the public or the admission to trading on a regulated market disclosed in an oral or written form, even if not for advertising purposes, shall be consistent with that contained in the offer document.

5. When according to this Directive no offer document is required, material information provided by an issuer or an offeror and addressed to qualified investors or special categories of investors, including information disclosed in the context of meetings relating to offers of debt securities, shall be disclosed to all qualified investors or special categories of investors to whom the offer is exclusively addressed. Where an offer document is required to be published, such information shall be included in the offer document or in a supplement to the offer document in accordance with Article 14(1).

6. The Competent Authority of the home Partner State shall have the power to exercise control over the compliance of advertising activity, relating to a public offer of debt securities or an admission to trading on a regulated market, with the principles referred to in paragraphs 2 to 5.

ARTICLE 16
FEES

1. Each Competent Authority approving the issue shall get an equal share of the evaluation fees of 0.1% of the value of the issue. At all times the evaluation fees shall be a maximum of USD 200,000 and a minimum of USD 20,000.

2. Evaluation fees shall be paid at the time of application to the Competent Authority of the elected Partner State. It shall be the duty of the elected Competent Authority to transfer to the other Competent Authorities in each Partner State their share of the evaluation fees paid. In the event of a rejection, the issuer shall forfeit 25% of the evaluation fee paid.

ARTICLE 17
ALLOTMENT CRITERIA

The offer document shall provide the allocation criteria indicating the percentage reserved for local and foreign investors respectively.

ARTICLE 18
LANGUAGE

An offer document shall be in the English language.

ARTICLE 19
INFORMATION SHARING AND CONFIDENTIALITY

1. Competent Authorities of Partner States shall cooperate with each other whenever necessary for the purpose of carrying out their duties and exercising their powers under this Directive. Competent Authorities shall render assistance to Competent Authorities of other Partner State.

2. Competent Authorities may share confidential information. Information thus exchanged shall be covered by the obligation of confidentiality.

ARTICLE 20
LISTING

1. Listing shall be mandatory in all the Partner States where the issuer offers debt securities to the public or a section of the public through a regional offer.

2. However, offers targeted at institutional or sophisticated investors may trade on a regulated OTC market.

ARTICLE 21
TRADING, CLEARING AND SETTLEMENT

An issuer of debt securities in the Community shall comply with the Directives on Exchanges and Central Securities Depositories. However, offers targeted at institutional or sophisticated investors may trade on a regulated OTC market.

ARTICLE 22
PROFESSIONAL PARTIES

An issuer of debt securities in the Community shall comply with the following requirements relating to professional parties.

(a) A transaction arranger/placing agent/ sponsoring stockbroker shall be a corporate body licensed by a Competent Authority.

(b) A reporting accountant who shall be subject to the requirements of their professional bodies. The Reporting Accountant shall be a firm registered in any Partner State.

(c) A legal advisor who shall be subject to the requirements of their professional bodies. The legal advisers shall be a firm registered in any Partner State.

(d) A paying and receiving bank which shall be a bank licensed in the Partner States where funds are being raised. The issuer shall determine the number of receiving banks.

(e) A note registrar.

(f) A credit rating agency.

ARTICLE 23
DENOMINATION OF OFFER

An issuer shall determine the currency and denomination for the issue.

ARTICLE 24
CONTINUOUS DISCLOSURE OBLIGATIONS

1. Every issuer shall comply with the continuous disclosure obligations in the listing Directive.

2. Every issuer shall keep the Competent Authority and the Stock Exchange on which it is listed, updated of any information relating to the issuer and its subsidiaries if any that:

   (a) is necessary to enable them and the public to appraise the financial position of the issuer and its subsidiaries; or

   (b) might reasonably be expected materially to affect market activity or the price of the debt securities of or otherwise affect its subsidiaries.

3. Notwithstanding paragraph 2, notification of the information is not required, where:

(a) it would be a breach of the law to disclose the information;

(b) the information concerns an incomplete proposal of negotiations;

(c) the information comprises matters of supposition or is insufficient definite such that it would be misleading to the market for it to be disclosed;

(d) the information is generated solely for the purpose of the internal management of the issuer and its advisers; or

(e) the information is a trade secret.

ARTICLE 25
BREACH OF CONTINUOUS DISCLOSURE OBLIGATIONS

An issuer who fails to comply with the regional continuous disclosure obligations shall be liable for breach of continuous disclosure obligations in the Community.

ARTICLE 26
DISPUTE RESOLUTION

1. The law in force in the jurisdiction where a cause of action arises shall apply in case of a dispute between an investor and an intermediary or between an issuer and an intermediary.

2. The information memorandum shall specify the applicable law and mode of dispute resolution where a dispute involves the issuer and an investor.

PART III
DISCLOSURE REQUIREMENTS FOR DEBT

ARTICLE 27
SHARE CAPITAL AND NET ASSETS

1. The minimum paid-up share capital shall be the local currency equivalent of USD 850,000 and the net assets shall be the local currency equivalent of USD 1,700,000.

2. All sovereign borrowers, quasi-sovereign borrowers and treaty organizations are exempted from this requirement.

ARTICLE 28
FINANCIAL STATEMENT DISCLOSURE

1. Issuers without a track record may raise capital through special purpose vehicles.

2. Issuers without a track record shall be subjected to disclosure requirements on performance projections, risk factors and mitigations and on the availability of financial information to assess any projections made.

3. Where an issuer has a track record, the following financial statements complying with IFRS for the three years preceding the offer shall be required:

(a) audited accounts not more than six (6) months old at the time of the offer;

(b) where the audited accounts are more than six (6)months old they shall be supported by management accounts prepared up to a date within one month of the date of the offer.

ARTICLE 29
CASH FLOW PROJECTIONS

1. An issuer shall provide projected financial statements that shall cover a period of not less than three (3) years from the date of issue or where the debt security has a shorter maturity period, the life of that debt security.

2. An issuer shall be required to have a positive cash flow projection for the subsequent twenty four months following the offer.

ARTICLE 30
GUARANTEE AND CREDIT ENHANCEMENT

An issuer may seek a guarantee or credit enhancement: Provided that where credit enhancement is to be provided the following requirements shall apply:—

(a) the guarantor shall be a bank, duly licensed non-bank financial institution, or recognized international financial institution;

(b) aletter of no objection shall be provided by the guarantor's primary regulator (other than in the case of an international financial institution); and

(c) the guarantor shall be required to have a valid credit rating.

ARTICLE 31
ISSUE SIZE

The minimum size of a regional debt security issue shall be USD $850,000.

ARTICLE 32
CREDIT RATINGS

1. An issuer of regional debt securities shall maintain a valid credit rating for so long as the issue remains outstanding.

2. Where an issuer has no track record or where the debt is to be funded from a specific project's revenues then, the credit rating shall be in respect of the project or performance projections.

3. The issuer shall be required to have credit rating of an investment grade for a public issue.

4. Only a credit rating agency with a publicly available Code of Conduct guiding its ratings practices and which is in compliance with International Organization for Securities Commissions (IOSCO) Code of Conduct Fundamentals for Credit Rating Agencies shall be eligible to provide credit rating reports. A credit rating agency which complies with the IOSCO CRA code shall not be required to be registered in any Partner State.

5. All Information Memoranda for regional offers of debt securities shall include a cautionary statement with words to the effect that- "A credit rating is not a recommendation to apply for the securities on offer or an assurance of performance of the offeror and investors shall exercise due diligence and use the rating as only one of the considerations in making their investment decision."

ARTICLE 33
ADDITIONAL ISSUE

1. The issuer may at any time raise additional capital in any one jurisdiction pursuant to a further pricing supplement updating the disclosures in the regional offer document.

2. In all events, where a green shoe option is available it shall be made to all countries where the offer has been made available.

ARTICLE 34
SANCTIONS

1. Without prejudice to the right of Partner States to impose criminal sanctions and without prejudice to their civil liability regime, Partner States shall ensure, in conformity with their national law, that the appropriate administrative measures can be taken or administrative sanctions be imposed against the persons responsible, where the provisions adopted in the implementation of this Directive have not been complied with. Partner States shall ensure that these measures are effective, proportionate and dissuasive.

2. The Partner States shall provide that the Competent Authority may disclose to the public every measure or sanction that has been imposed for infringement of the provisions adopted pursuant to this Directive, unless the disclosure would seriously jeopardize the financial markets or cause disproportionate damage to the parties involved.

ARTICLE 35
RIGHT OF APPEAL

The Partner States shall ensure that decisions taken pursuant to laws, regulations and administrative provisions adopted in accordance with this Directive are subject to the right of appeal to the courts.

ARTICLE 36
AMENDMENTS

1. This Directive may be amended by the Council of Ministers.

2. Any proposals for amendment may be submitted in writing by the Partner States to the Secretary General for submission to the Council of Ministers.

ARTICLE 37
IMPLEMENTATION

Partner States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than one (1) year from the date of the Council of Ministers' approval. They shall forthwith inform the Council of Ministers thereof.

SCHEDULE

OFFER DOCUMENT APPROVAL PROCEDURE FOR ISSUANCE OF REGIONAL DEBT SECURITIES

1. The issuer shall elect a jurisdiction within the Community in which the issuer shall lodge the offer document. The issuer shall simultaneously submit the offer document to the Competent Authorities of other Partner States in which the issuer proposes to raise capital.

2. Where an incomplete or unmeritorious *ab initio* application has been lodged, the Competent Authority of the elected Partner State shall have the discretion to reject the application in whole and inform the other Competent Authorities of such rejection and the reasons thereof. In the event of a rejection and the issuer wishes to proceed with the issuance, the issuer shall be required to lodge the application afresh in all Partner States and be liable to pay any application costs attaching thereto.

3. Each Competent Authority shall apply the eligibility and disclosure requirements for issuance of regional debt securities in this Directive for purposes of assessing the application.

4. In the event that any Competent Authority seeks to interpret the applicability of any provision of the eligibility and disclosure requirements, that Competent Authority shall officially communicate with all other Competent Authorities to determine the manner in which that matter will be addressed and the majority opinion shall prevail.

5. Where a Competent Authority has communicated with the other Competent Authorities in accordance with paragraph 4, the Competent Authorities consulted shall revert within five working days of the receipt of communication and the final position shall be communicated to the issuer within ten days and copied to all Competent Authorities.

6. The other Competent Authorities shall submit any comments on the Offer Document to the elected Competent Authority for consolidation for communication to the issuer. Where the elected Competent Authority proposes to exclude certain matters from communication to the issuer, it shall communicate its intention to the other Competent Authorities, which action shall be subject to the timelines for communication under paragraph 5.

7. The elected Competent Authority shall, upon completion of its review, submit the same for consideration and approval by its relevant Competent Authority in accordance with its applicable procedures for approval of offers to the public: Provided that the submission shall not be made later than five working days following the receipt of the complying document from the issuer.

8. In the event of an approval, the elected Competent Authority shall issue a letter to all other Competent Authorities communicating its approval and confirming that the issue complies with the regional criteria.

9. In the event of the grant of an approval of the issue, the elected Competent Authority shall provide a copy of the letter of approval and details of any conditions imposed on that approval to all the other Competent Authorities. This approval will not be communicated to the issuer pending circulation and determination by the other Competent Authorities.

10. Upon receipt of a copy of the approval letter from the elected Competent Authority, every Competent Authority which is in receipt of the Offer Document shall submit the final Offer Document together with the elected Competent Authority's approval letter to their respective authorities for consideration and determination: Provided that such submission shall not be made later than five working days following the receipt of the elected Competent Authority's decision as per the approval timetable set out in this Annexture.

11. In the event that approval is declined, the elected Competent Authority shall provide a copy of the reasons for such decision to all other Competent Authorities for their consideration. The elected Competent Authority shall specify where the approval has been withheld for reasons other than those in the criteria set down for regional issues. Where a rejection occurs for reasons other than failure to comply with the regional guidelines, the other Competent Authorities shall retain full statutory discretion to approve or reject the application placed before it notwithstanding any approval or rejection by the elected Competent Authority.

12. For the purposes of coordination, the approving Competent Authorities shall engage with any listing exchange in their jurisdiction to ensure compliance by the issuer with any reporting and disclosure obligations issued by the Competent Authority and the securities exchange.

13. In so far the issuer has raised capital in a particular Partner State; the elected Competent Authority shall be responsible for the supervision of that issuer in respect of that issue.

14. Where an imbalance in information disclosure occurs, the Competent Authorities shall coordinate any action with any relevant securities exchanges or trading platforms on which the securities in question are traded to mitigate the negative impacts of such information asymmetry on investors.

15. Any changes or interpretations made to this Schedule or the Approval Procedure shall be published by all the Partner States.

Approval Timetable

T: Complying application lodged with all the Competent Authorities.

T+ 10 Days: All comments from Competent Authorities lodged with the elected Competent Authority.

T + 15 Days: All areas for consultation for interpretation resolved.

T+ 20 Days: All issues communicated to the issuer.

Y+ 10: elected Competent Authority board determination (primary board may approve with conditions) and issues letter of comfort.

Y+ 15 Days: All other Competent Authorities' board determination (decisions may be conditional indicating matters to be addressed).

Y+ 17 Days: Communication of Competent Authorities' decision to issuer.

"Day" means a business day.

Where

T = The date application is lodged with the elected Competent Authority; and

Y = The date on which the issuer reverts with complying documents.

Legal Notice No. EAC/25/2015.

DIRECTIVE EAC/EX/CN29/DIRECTIVE 17 OF THE COUNCIL OF MINISTERS

OF

(*29TH APRIL, 2014*)

ON REGIONAL LISTINGS IN THE SECURITIES MARKET

PREAMBLE

The Council of Ministers of the East African Community

Having regard to the Treaty for the Establishment of the East African Community and in Particular Articles 85 (d), 14(3) and 16;

WHEREAS Article 31 of the Protocol on the Establishment of the East African Community Common Market (Common Market Protocol) provides that for proper functioning of the Common Market the Partner States undertake to co-ordinate and harmonize their financial sector policies and regulatory frameworks to ensure the efficiency and stability of their financial systems as well as the smooth operations of the payment systems;

WHEREAS Article 47 of the Common Market Protocol provides that the Partner States shall undertake to approximate their national laws and to harmonize their policies and systems for purposes of implementing this Protocol and that the Council shall issue directives for the purposes of implementing this Article.

HAS ADOPTED THIS DIRECTIVE.

ARTICLE 1
INTERPRETATION

"additional issue" means a capitalisation, rights, scrip dividend or bonus issue;

"books closing date" refers to the day (including time) set by a company for purposes of determining members for the issue of entitlements;

"borrowing company" means an issuer with respect to debt securities;

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

"Chief Executive" means the Chief Executive of an approved Exchange;

"Central Depository" means a company within any Partner State approved by a Competent Authority to establish and operate a system for the central handling of securities:

(a) whereby all such securities are immobilised or dematerialised and dealings in respect of those securities are effected by means of entries in securities accounts without the physical necessity of certificates; or

(b) which permits or facilitates the settlement or registration of securities transactions or dealings in securities without the physical necessity of certificates; and

(c) to provide other facilities and services incidental thereto;

"community" means the East African Community

"competent authority" means the National Regulatory Agency that is the primary supervising entity of securities market in the Partner State.

"day" means calendar days excluding Saturdays and Sundays and public holidays unless stated otherwise;

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

"debt securities" include debentures or debenture stocks, secured or unsecured, securities of or securities guaranteed by the Government of any of the Partner States, and corporate bonds;

“de-listing” means removal of a security or a company from the Official List of an Exchange;

“dematerialised security” Means a book entry security which has been prescribed by a central depository whereby the underlying physical certificate is no longer recognised as prima facie evidence of ownership

“equity securities” means ordinary shares, rights or interests (whether described as units, shares or otherwise) and rights or options to subscribe for any of the foregoing

“exchange” means an approved Stock or Exchange in any of the EAC Partner States;

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

“foreign investor” means any person who is not a local investor;

“foreign issuer” means anybody corporate incorporated outside the East African community but registered in any of the Partner States;

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

“IAS” means International Accountings Standards;

“immobilised security” Means a security where the underlying physical certificates have been deposited with and are held by a central depository.

“insider” means any person who is or was connected with a company, or is deemed to have been connected with a company and who is reasonably expected to have access, by virtue of such connection, to unpublished information which, if made generally available, would be likely to materially affect the price or value of the securities of the company, or who has received or has had access to such unpublished information;

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

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

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

“listed” means admitted to the Official List of an Exchange, and listing shall be construed accordingly;

“listed company” means an issuer any part of whose shares have been listed;

“local investor” means in case of:

(i) An individual, a natural person who is a citizen of an East African Community Partner State;

(ii) A body corporate, a company or any other body corporate established or incorporated under the Companies Act or under the provisions of any written law of an East African Community Partner State in which the citizens or the government of an East African Community Partners State have beneficial interests in one hundred percent (100%) of its ordinary shares”.

“offer document” means any prospectus or document, notice, circular, advertisement, or other invitation in print or electronic form containing information on a company or other legal person authorized to issue securities or a collective investment scheme aimed at inviting offers from the public or a section of the public to subscribe for the purchase of securities;

“market segment” means a separate segment of the Official List of an exchange, with the approval of a Competent Authority, with respect to listings of securities for which specific eligibility and disclosure requirements are prescribed;

“material contract” is any contract the details of which would be necessary for the purpose of making an informed assessment of the financial position and prospects of the issuer;

“material information” means any information which may affect the price of an issuer’s securities or influence investment decisions and includes information on:—

(a) a merger, acquisition or joint-venture;

(b) a block split or stock dividend;

(c) earnings and dividends of an unusual nature;

(d) the acquisition or loss of a significant contract;

(e) a significant new product or discovery;

(f) a change in control or significant change in management;

(g) a call of securities for redemption;

(h) the public or private sale of a significant amount of additional securities;

(i) the purchase or sale of a significant asset;

(j) a significant labour dispute;

(k) a significant law suit against the issuer;

(l) establishment of a programme to make purchases of the issuer’s own shares;

(m) a tender offer for another issuer’s securities;

(n) significant alteration of the memorandum and articles of association of the issuer; or

(o) any other peculiar circumstances that may prevail with respect to the issuer or the relevant industry;

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

“regional listing” means listing of securities in more than one Exchange;

“regional offer” means an offer of securities approved for issue in more than one EAC Partner State;

“regional stockbroker” means a stockbroker duly authorised to operate in more than one Partner State within the Community;

“sponsoring stockbroker” means a body corporate having with trading rights at an Exchange in any of the partner state whose responsibilities are outlined under Part II of these requirements;

“underwriting” means the purchase or commitment to purchase or distribute, by dealers or other persons approved by a relevant Competent Authority of any securities that have not been subscribed during the offer of securities to the public by the issuer.

ARTICLE 2
PRINCIPLES

In exercising its implementing powers in accordance with this Directive, the Partner States shall respect the following principles:—

(a) the listing of securities approved for issue in more than one jurisdiction in EAC, shall be considered a regional listing and shall comply with the provisions of the EAC Directive on Regional Listing.

(b) an issuer may seek the listing of securities arising from a regional public offer;

(c) an Issuer seeking admission of securities arising from a regional public offer to the official list shall follow the procedure in this Directive;

(d) an issuer shall meet the eligibility requirements for a regional listing prescribed in this Directive;

(e) every Issuer shall comply with the continuous listing obligations prescribed in this Directive.

ARTICLE 3
OBJECTIVE

The objective of this Directive is to harmonize the standards on Listings of securities in the EAC securities markets arising from a regional offer with a view to allowing for multiple or simultaneous listings.

ARTICLE 4
SCOPE

This Directive shall apply to listing of securities arising from a regional offer.

PART I:
ADMISION OF SECURITIES TO THE OFFICIAL LIST

This Part sets out the general mandate of an Exchange and procedure for admission to listing.

ARTICLE 5
GENERAL MANDATE OF AN EXCHANGE

1 An Exchange shall have the following mandate with respect to the listing of securities—

(a) to review and approve applications for admission to listing of new and additional securities in any of the market segments;

(b) to review compliance with continuing listing obligations by issuers and take the necessary action for non-compliance including imposing penalties and other sanctions;

(c) to suspend listing of securities for a predetermined period as may be necessary and restoration of such securities to listing in line with the procedures provided in these requirements. Such suspension shall be communicated to the Competent Authority;

(d) to identify impediments to listing of securities at the Exchange and make recommendations of ways and measures to address such impediments; and

(e) to make proposals on any incentives necessary to promote and attract listing of securities.

ARTICLE 6
PROCEDURE FOR ADMISSION TO LISTING

1. Application for Admission on the List shall follow the following order—

(a) an application for Admission to List at the Exchange shall be made to the Exchange in the form defined in Schedule 1 of Part VI. The said application shall be accompanied by the documents listed under subsection 2 here below and Schedule 5;

(b) the Exchange shall consider the said application and may approve or decline the application;

(c) any applicant aggrieved by the decision of the Exchange may appeal to the Competent Authority.

2. The following documents shall be submitted with an application for admission on the list—

(a) a letter to the Chief Executive from the company's Legal advisor confirming that the Applicant is duly constituted;

(b) a Letter to the Chief Executive in the format specified in the Appendices to these Requirements from the Sponsoring stockbroker confirming that the Applicant is able and willing to comply with these Requirements;

(c) a copy of the final offer document approved by the Competent Authority;

(d) a copy of the Applicant's audited accounts for the previous three years;

(e) a copy of the Applicant's memorandum and articles of association or other appropriate governing documents according to the nature of the security (and of any proposed alterations);

(f) details of the existing and intended distribution of the Applicant's securities (including particulars of any beneficial owners of 5% or more of the securities);

(g) a copy of all required authorisations with respect to submission for approval by the Exchange and publication of any prospectus and to the changes in the Issuer's structure;

(h) where applicable, a copy of the proposed underwriting agreements and contracts, proposed agreements with exchanges for Admission on the List of the securities to be offered (where appropriate), proposed agreements or contracts with a Registrar;

(i) any electronic media with a copy of all of the above documents in electronic form.

PART II:

SPONSORING STOCKBROKERS

ARTICLE 7
APPOINTMENT

1. An Issuer who intends to carry out a regional listing shall appoint a Sponsoring Stockbroker.

2. If a Sponsoring stockbroker is not a regional stockbroker, it shall appoint another stockbroker with trading rights at the Exchange within the Partner State where the Issuer intends to list.

3. The Sponsoring Stock broker shall undertake to accept the responsibilities laid out herein under.

ARTICLE 8
RESPONSIBILITIES OF A SPONSORING STOCKBROKER

1. The sponsoring stockbroker shall make a declaration in a format set out under Schedule 4 to the Exchange to accept their respective responsibilities and discharge those responsibilities at all times to the satisfaction of the Exchange.

2. The responsibilities of a sponsoring stockbroker shall include the following:—

(a) to present the application for admission to listing to the Exchange.

(b) to submit to the Exchange as soon as possible and, in any event, not later than the date on which any documents in connection with the issuer are submitted to the Exchange, a letter of appointment, an offer document and a declaration;

(c) to provide to the Exchange any information or explanation known to it in such form and within such time limit as the Exchange may reasonably require for the purpose of verifying whether the requirements under these rules are being or have been complied with by the proposed issuer;

(d) to facilitate, (where necessary) communication between the issuer, the Exchange and the Competent Authority;

(e) to submit all documentation required in terms of Schedules 1 to 6 to the Exchange as applicable;

(f) to ensure that the issuer is guided and advised on the application of the listing requirements;

(g) to ensure the correctness and completeness of all documentation submitted to the Exchange;

(h) to carry out any activities incidental to the application requested by the Exchange in relation to the listing, including briefings;

(i) to give a return of total subscriptions after the issue; and

(j) to discharge its responsibilities with professional skill and due care.

3. In case of breach of responsibility or professional misconduct of any nature by the sponsoring stockbroker or any other adviser to the issuer, the issuer shall immediately inform the Exchange.

PART III:

METHODS OF LISTING AND ELIGIBILITY REQUIREMENTS

ARTICLE 9
METHODS OF LISTING SECURITIES

(a) an issuer shall apply to the Exchange for the listing of securities arising from a regional offer.

(b) an issuer may seek the listing of additional securities of the same class as those already listed by any of the following methods:

(i) a rights issue;

(ii) capitalisation issue (or bonus issue) in lieu of dividend or otherwise;

(iii) scrip dividend; or any other method approved by a competent Authority.

ARTICLE 10
ELIGIBILITY REQUIREMENTS FOR LISTING OF EQUITY SECURITIES

1. The issuer shall be an entity incorporated or registered as a foreign entity in all jurisdictions where the listing is to be made.

2. The issuer shall have a minimum authorized issued and fully paid up ordinary share capital of Eight hundred and fifty thousand US dollars ($850,000).

3. Net assets immediately before the public offering or listing of shares should not be less than one million two hundred thousand US Dollars ($1,200,000).

4. Shares to be listed shall be freely transferable and not subject to any restrictions on marketability or any pre-emptive rights.

5. The issuer shall have audited financial statements complying with International Financial Reporting Standards (IFRS) for an accounting period ending on a date not more than four months prior to the proposed date of the offer or listing for issuers whose securities are not listed at the exchange, and six (6) months for issuers whose securities are listed at the exchange.

6. The Issuer must have prepared financial statements for the latest accounting period on a going concern basis and the audit report must not contain any emphasis of matter or qualification in this regard.

7. At the date of the application, the issuer must not be in breach of any of its loan covenants particularly in regard to the maximum debt capacity. As at the date of the application, no director or senior manager of the issuer may have:—

   (a) contravened the provision of any law, in any of the EAC Partner States or elsewhere, designed for the protection of members of the public against financial loss due to dishonesty, incompetence, or malpractice by persons engaged in transacting with marketable securities;

   (b) been a director of a licensed or approved person who has been liquidated or is under liquidation or statutory management;

   (c) taken part in any business practice which, in the opinion of a competent Authority or a Exchange, was fraudulent prejudicial to the market or public interest, or was otherwise improper, which would otherwise discredit the person's methods of conducting business;

   (d) taken part or has been associated with any business practice which casts doubt on the competence or soundness of judgment of that person; or

   (e) acted in such a manner as to cast doubt on the person's competence and soundness of judgment.

8. The issuer must have a clearly defined future dividend policy.

9. The issuer should not be insolvent

10. The issuer should have adequate working capital.

11. Following the public share offering or immediately prior to listing, at least twenty five per centum (25%) of the shares must be held by not less than one thousand shareholders excluding employees of the issuer.

12. If the issuer is listed in another exchange within the Partner State or is licensed by any regulator other than a Competent Authority, it shall obtain a certificate of no objection from the relevant regulators.

13. All issued shares must be deposited at a central depository established under the Laws of the respective Partner states.

14. All issued shares shall be dematerialized

ARTICLE 11

ELIGIBILITY REQUIREMENTS FOR LISTING OF DEBT SECURITIES

1. The issuer shall be a body corporate of the Partner States.

2. Where the Issuer is not a company, the Issuer shall be duly established under a written law or recognised under an international Treaty.

3. The issuer shall have minimum issued and fully paid up share capital of eight hundred and fifty thousand US dollars ($850,000) and net assets of one million two hundred thousand US dollars ($1,200,000) before the public offering or listing of the securities.

4. All debt securities offered to the public shall be listed and be freely transferable and not subject to any restrictions on marketability.

5. The issuer must have audited financial statements complying with International Financial Reporting Standards (IFRS) for an accounting period ending on a date not more than four months prior to the proposed date of the offer.

6. The Issuer must have prepared financial statements for the latest accounting period on a going concern basis and the audit report must not contain any emphasis of matter or qualification in this regard.

7. In the case of issuers whose securities are listed at a exchange in any of the Partner states but where not more than six months have elapsed since the end of the financial year, un-audited financial statements covering the period preceding the six (6) months must be included in or appended to the Listing Document.

8. At the date of the application, the issuer must not be in breach of any of its loan covenants particularly in regard to the maximum debt capacity.

9. As at the date of the application no director of the issuer may have:–

   (a) contravened the provision of any law, in any of the EAC Partner States or elsewhere, designed for the protection of members of the public against financial loss due to dishonesty, incompetence, or malpractice by persons engaged in transacting with marketable securities—

   (b) been a director of a licensed or approved person who has been liquidated or is under liquidation or statutory management;

   (c) taken part in any business practice which, in the opinion of a competent Authority or a Exchange, was fraudulent prejudicial to the market or public interest, or was otherwise improper, which would otherwise discredit the person's methods of conducting business; or

   (d) taken part or has been associated with any business practice which casts doubt on the competence or soundness of judgment of that person; or

   (e) acted in such a manner as to cast doubt on the person's competence and soundness of judgment;

   (f) the issuer must have suitable senior management with relevant experience.

   (g) at least one third of the issuer's board of directors shall be non-executive directors.

10. If the issuer is licensed to operate by any regulator in any country, the issuer shall provide to the Exchange a certificate of no objection from the relevant regulators.

11. Where there is a guarantor, the consent of its regulator shall be availed to the Exchange.

12. Where there is a guarantor; the guarantor shall provide the Exchange with a financial capability statement duly certified by its external auditors.

13. The issuer must have declared profits after tax attributable to shareholders in at least two of the last three financial periods preceding the application for the issue.

14. Where the issuer does not satisfy the requirements it may seek a credit enhancement to have the securities it seeks to issue guaranteed.

15. The guarantor may only be a bank or an insurance company or any other institution with necessary financial capacity acceptable to the Exchange and a copy of the guarantee document shall be subject to approval of and be submitted to the Exchange with the Listing document.

16. Total indebtedness, including the new issue of debt securities shall not exceed four hundred per centum of the company's net worth (or gearing ratio of 4:1) as at the latest statement of financial position.

17. The funds from operations to total debt for the three trading periods preceding the issue shall be maintained at a weighted average of forty per centum or more.

18. The conditions as provided must be maintained as long as the debt securities remain outstanding.

19. The minimum size of the issue shall be Eight Hundred and fifty thousand US dollars ($850,000).

20. The minimum issue lot size shall be one thousand US dollars.

21. For an issuer to maintain listing of its debt security, the minimum size of the debt security listed shall be eight hundred and fifty thousand US dollars ($850,000).

PART IV:
CONTINUING LISTING OBLIGATIONS

ARTICLE 12
GENERAL OBLIGATIONS

1. An issuer whose securities are listed on more than one exchange must ensure that equivalent information is made available at the same time to the market at all such exchange.

2. An Issuer shall as soon as possible but not later than 24 hours following the event or circumstance release an announcement giving details of information which includes but is not restricted to any major development in the issuers sphere of activity or expectation of performance which is not public knowledge and which information may—

   (a) by virtue of the effect of such development on its assets and liabilities or financial position or on the general course of its business, lead to substantial movement in the price of its securities;

   (b) involve circumstances or events that have or are likely to have a material effect on the financial results, the financial position or cash flow of the Issuer, or information necessary to enable holders of the Issuer's listed securities and the public to avoid the creation of a false market in its listed securities; or

   (c) any new developments in its sphere of activity which are not public knowledge and which may lead to material movements in the ruling price of its listed securities.

3. An issuer shall disclose all material information and make a public announcement of:

   (a) any change of address of the registered office of the issuer or of any office at which the register of the holders of listed securities is kept;

   (b) any change in the directors, company secretary or auditors of the issuer;

   (c) any proposed significant alteration of the memorandum and articles of association of the issuer;

   (d) any application filed in a court of competent jurisdiction to wind up the issuer or any of its subsidiaries. Details of the suit and the probable outcome of the suit must be confidentially submitted to the applicable Competent Authority and the exchange;

   (e) the appointment or imminent appointment of receiver manager or liquidator of the issuer or any of its subsidiaries; and

   (f) any profit warning, where there is a material discrepancy between the projected earnings for the current financial year and the level of earnings in the previous financial year.

4. For the purposes of subparagraph (3)(f), the expression "material discrepancy" in relation to projected earnings for a financial year means that such earnings are at least 25% lower than the level of earnings in the previous financial year.

5. Unless otherwise stated, all public announcements which an issuer is required to make under this Directive shall be made within twenty four hours of the happening of the event.

6. All announcements shall be published in English and one other official language where applicable in a daily newspaper of national circulation in any of the Partner States where such securities are listed.

7. An issuer may give information in strict confidence to its advisers and to persons with whom it is negotiating with a view to effecting a transaction or raising finance. These persons may include prospective underwriters of an issue of securities, providers of funds or loans or the placers of the balance of a rights issue not taken up by shareholders. In such cases, the issuer must advise, preferably in writing, the recipients of such information that it is confidential.

8. Information required by and provided in confidence to, and for the purposes of a government department, the Central Bank of a Partner State, a Competent Authority, or any other statutory or regulatory body need not be published.

9. Where the information relates to a proposal by the issuer which is subject to negotiations with employees or trade union representatives, the issuer may defer publication of the information until such time as an agreement has been reached as to the implementation of the proposal.

10. Where it is proposed to announce at any meeting of holders of an issuer's listed securities, information which might lead to substantial movement in their price, arrangements must be made for publication of that information to the exchange and the market so that the announcement at the meeting is made no earlier than the time at which the information is published to the market.

ARTICLE 13
CAUTIONARY ANNOUNCEMENTS

An issuer must publish, by way of a cautionary announcement, information which could lead to material movements in the ruling price of its securities if at any time the necessary degree of confidentiality cannot be maintained, or that confidentiality has or may have been breached.

ARTICLE 14
DISCLOSURE OF PERIODIC FINANCIAL INFORMATION

1. Announcements of dividends and/or interest payments on issued securities should be notified to the exchange, the applicable Competent Authority and the holders of the relevant security within twenty four hours following the Board's resolution in the case of an interim dividend or recommendation in the case of a final dividend, by means of a press announcement. The resolution must be at least twenty one days prior to the closing date of the register and shall contain at least the following information:

   (a) the closing date for determination of entitlements;

   (b) the date on which the dividend or interest will be paid; and

   (c) the cash amount that will be paid for the dividend or interest.

2. Where the shareholders at the annual general meeting do not approve a dividend recommended by the Board, this fact shall be announced by the Board by means of a notice within twenty four hours following the annual general meeting.

3. Dividends declared by an issuer shall be paid out within ninety days of the date of the books closure in case of interim dividends, and ninety days of approval of the shareholders in the case of the final dividend.

4. Announcements of dividends and/or interest payments on issued securities should be notified to the exchange, the applicable Competent Authority and the holders of the relevant security within twenty four hours following the Board's resolution in the case of an interim dividend or recommendation in the case of a final dividend, by means of a press announcement. The resolution must be at least twenty one days prior to the closing date of the register and shall contain at least the following information:

   (i) the closing date for determination of entitlements;

   (ii) the date on which the dividend or interest will be paid; and

   (iii) the cash amount that will be paid for the dividend or interest.

5. Where the shareholders at the annual general meeting do not approve a dividend recommended by the Board, this fact shall be announced by the Board by means of a notice within twenty four hours following the annual general meeting.

6. Dividends declared by an issuer shall be paid out within ninety days of the date of the books closure in case of interim dividends, and ninety days of approval of the shareholders in the case of the final dividend.

7. Notification of non-declaration of dividends or payment of interest must be published either in the interim or quarterly report, the annual financial statements or by way of a press announcement.

8. An issuer declaring a final dividend prior to the publication of the annual financial statements or quarterly report must ensure that the dividend notice given to shareholders contains a statement of the ascertained or estimated consolidated profits before taxation of the issuer and its subsidiaries for the year, and also particulars of any amounts appropriated from accumulated profits, revenue and reserves of past years, or other special sources subject to the approval of the applicable Competent Authority, to provide wholly or partly for the dividend.

9. An issuer whose securities are listed shall announce any intention to fix a books closing date and the reason thereof, stating the books closure date, which shall be at least twenty one days after the date of notification to the exchange at which the securities are listed, in the case of an interim dividend, and in the case of a final dividend, the closure date shall be subject to the approval of the shareholders at the annual general meeting. The announcement shall include, the address of the share registry at which documents will be accepted for registration.

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

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

12. An issuer should include the following information, as a minimum, in the notes to its interim financial statements, if material and if not disclosed elsewhere in the interim financial report—

   (a) a statement that the same accounting policies and methods of computation are followed in the interim financial statements as compared with the most recent annual financial statements or, if those policies or methods have been changed, a description of the nature and effect of the change;

   (b) explanatory comments about the seasonality or cyclicality of interim operations;

   (c) the nature and amount of items affecting assets, liabilities, equity, net income, or cash flows that are unusual because of their nature, size, or incidence; and

   (d) the nature and amount of changes in estimates of amounts reported.

13. The information should normally be reported on a financial year-to-date basis. However, the issuer should also disclose any events or transactions that are material to an understanding of the current interim period.

14. Interim reports should include interim financial statements (condensed or complete) for periods as follows:

   (a) statement of financial position as of the end of the current interim period and a comparative statement of financial position as of the end of the immediately preceding financial year;

   (b) statement of comprehensive incomes for the current interim period and cumulatively for the current financial year to date, with comparative statement of comprehensive incomes for the comparable interim periods (current and year-to-date) of the immediately preceding financial year;

   (c) a statement showing changes in equity cumulatively for the current financial year to date, with a comparative statement for the comparable year-to-date period of the immediately preceding financial year; and

   (d) cash flow statement cumulatively for the current financial year to date, with a comparative statement for the comparable year-to-date period of the immediately preceding financial year.

15. If an estimate of an amount reported in an interim period is changed significantly during the financial year and a separate financial report is not published for that interim period, the nature and amount of that change in estimate should be disclosed in a note to the annual financial statements for that financial year.

16. An issuer should apply the same accounting policies in its interim financial statements as are applied in its annual financial statements, except for accounting policy changes made after the date of the most recent annual financial statements that are to be reflected in the next annual financial statements. However, the frequency of an issuer's reporting (annual, half-yearly, or quarterly) should not affect the measurement of its annual results. To achieve that objective, measurements for interim reporting purposes should be made on a year-to-date basis.

17. Revenues that are received seasonally, cyclically, or occasionally within a financial year should not be anticipated or deferred as of an interim date if anticipation or deferral would not be appropriate at the end of the issuer's financial year.

18. Costs that are incurred unevenly during an issuer's financial year should be anticipated or deferred for interim reporting purposes if, and only if, it is also appropriate to anticipate or defer that type of cost at the end of the financial year.

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

20. A change in accounting policy, other than one for which the transition is specified by a new IFRS, should be reflected by—

(a) restating the financial statements of prior interim periods of the current financial year and the comparable interim periods of prior financial years, if the issuer follows the benchmark treatment under IAS 8; or

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

21. Any announcement made by the issuer in respect of—

(a) a dividend;

b) a capitalisation or rights issue;

(c) the closing of the books;

(d) a capital return; or

(e) sales or turnover.

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

22. An issuer of securities listed at a exchange in any one or more of the Partner States shall publish an interim report within two months of the end of the interim period in the financial year and shall notify the exchange and the applicable Competent Authority. Where an issuer has subsidiaries, the said report shall be based on the group accounts.

23. Arrangers of corporate bonds shall submit quarterly returns in the prescribed format by the 10th day of the month following the end of the quarter.

24. Every listed company shall prepare an annual report containing audited annual financial statements within four months of the close of its financial year.

25. A complete set of financial statements includes the following components:

(a) statement of financial position;

(b) statement of comprehensive income;

(c) a statement showing either

(d) all changes in equity

(e) changes in equity other than those arising from capital

(f) transactions with owners and distributions to owners;

(g) cash flow statement; and

(h) accounting policies and explanatory notes.

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

(a) a significant change in the nature of the operations of the issuer or a review of its financial statement presentation demonstrates that the change will result in a more appropriate presentation of events or transactions; or

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

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

(a) the name of the issuer or other means of identification;

(b) whether the financial statements cover an individual company or a group;

(c) the statement of financial position date or the period covered by the financial statements, whichever is appropriate to the related component of the financial statements;

(d) the reporting currency; and

(e) the level of precision used in the presentation of figures in the financial statements.

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

29. As a minimum, the face of the statement of financial position should include line items which present the following amounts:

(a) property, plant and equipment;

(b) intangible assets;

(c) financial assets (excluding amounts shown under (d), (f) and (g));

(d) investments accounted for using the equity method;

(e) inventories;

(f) trade and other receivables;

(g) cash and cash equivalents;

(h) trade and other payables;

(i) tax liabilities and assets as required by IAS 12 - Income Taxes;

(j) provisions;

(k) non-current interest-bearing liabilities;

(l) minority interest;

(m) issued capital and reserves; and

(n) Unclaimed dividends since the adoption of the IFRS.

30. An issuer should disclose the following either on the face of the statement of financial position or in the notes for each class of share capital:

(a) the number of shares authorised;

(b) the number of shares issued and fully paid, and issued but not fully paid;

(c) par value per share, or that the shares have no par value;

(d) a reconciliation of the number of shares outstanding at the beginning and at the end of the year;

(e) the rights, preference and restrictions attaching to that class including restrictions on the distribution of dividends and the repayment of capital;

(f) shares of the issuer held by related companies of the issuer; and

(g) shares reserved for issuance under options and sales contracts,

including the terms and amounts.

31. A description of the nature and purpose of each reserve within owner's equity; and when dividends have been proposed but not formally approved for payment, the amount included (or not included) in liabilities.

32. An issuer should disclose the following either on the face of the statement of financial position or in the notes for each class of share capital:—

(a) the number of shares authorised;

(b) the number of shares issued and fully paid, and issued but not fully paid;

(c) par value per share, or that the shares have no par value;

(d) a reconciliation of the number of shares outstanding at the beginning and at the end of the year;

(e) the rights, preference and restrictions attaching to that class including restrictions on the distribution of dividends and the repayment of capital;

(f) shares of the issuer held by related companies of the issuer; and

(g) shares reserved for issuance under options and sales contracts, including the terms and amounts;

33. a description of the nature and purpose of each reserve within owner's equity; and when dividends have been proposed but not formally approved for payment, the amount included (or not included) in liabilities.

34. As a minimum, the face of the statement of comprehensive income should include line items which present the following amounts —

(a) revenue;

(b) the results of operating activities;

(c) finance costs;

(d) share of profits and losses of associates and joint ventures accounted for using the equity method;

(e) tax expense;

(f) profit or loss from ordinary activities;

(g) extraordinary items;

(h) minority interest; and

(i) net profit or loss for the period.

35. An issuer should present, as a separate component of its financial statements, a statement showing—

(a) the net profit or loss for the period;

(b) each item of income and expense, gain or loss which, is recognised directly in equity, and the total of these items; and

(c) the cumulative effect of changes in accounting policy and the correction of fundamental errors dealt with under the benchmark treatments in IAS 8.

36. In addition, an issuer should present, either within this statement or in the notes

(a) capital transactions with owners and distributions to owners;

(b) the balance of accumulated profit or loss at the beginning of the period and at the statement of financial position date, and the movements for the period; and

(c) a reconciliation between the carrying amount of each class of equity capital, share premium and each reserve at the beginning and the end of the period, separately disclosing each movement.

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

(a) the domicile and legal form of the issuer, its country of incorporation and the address of the registered office (or principal place of business, if different from the registered office);

(b) a description of the nature of the issuer's operations and its principal activities;

(c) The name of the parent company and the ultimate parent company of the group; and

(d) either the number of employees at the end of the period or the average for the period covered by the financial statements.

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

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

(a) a notice of annual general meeting and annual financial statements for the relevant financial year; and

(b) the auditor's report on the issuer's financial statements.

40. Where an issuer has subsidiaries, its annual audited accounts shall be prepared in consolidated form in accordance with the applicable Partner State's laws and regulations and the relevant IFRS. There shall be set out as separate items in every issuer's annual report:—

(a) the amount of turnover and investments and other income excluding extra ordinary items, together with comparative figures for the previous year;

(b) a statement of source and application of funds with comparative figures for the previous year; and

(c) a statement as at end of the financial year, showing the interest of each director of the issuer in the stated capital of the issuer, its subsidiary or in an associated company, appearing in the register maintained under the provisions of the applicable Partner State's laws and regulations.

41. Particulars of material contracts involving directors' interests, either still subsisting at the end of the financial year or, if not then subsisting, entered into since the end of the previous financial year, providing—

(a) the names of the lender and the borrower;

(b) the relationship between the borrower and the director (if the director is not the borrower);

(c) the amount of the loan;

(d) the interest rate;

(e) the terms as to payment of interest and repayment of principle; and

(f) the security provided.

42. In respect of land and buildings, whether freehold or leasehold, to show as a note to the accounts a brief description of each of the major properties together with an indication as to the location of the properties concerned.

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

ARTICLE 15
NOTIFICATIONS RELATING TO CAPITAL

An issuer must make a public announcement and notify the exchange and the applicable Competent Authority of the following information relating to its capital:—

(a) any proposed change in its capital structure including the structure of its debt securities;

(b) where a company has debt securities, any new issues of debt securities and in particular any guarantee or security in respect thereof;

(c) any change(s), in the rights attaching to any class of securities, in loan terms (or in the rate of interest carried by a debt security) or to any securities which are convertible;

(d) the basis of allotment of securities offered generally to the public for cash and open offers to shareholders;

(e) the effect, if any, of any issue of further securities on the terms of the exercise of rights under options, warrants and convertible securities; and

(f) the results of any new issue of securities or of a public offering of existing securities.

ARTICLE 16
SHAREHOLDING

1. An issuer shall at the end of each calendar quarter, disclose to the exchange every person who holds or acquires 5% or more of the issuer's ordinary shares, and shall publish in its annual report the following information on the shareholding:—

   (a) distribution of shareholders;

   (b) names of the ten largest shareholders and the number of shares in which they have an interest as shown in the issuer's register of members;

   (c) distribution schedule of each class of shares other than ordinary shares, setting out the number of holders in the categories set out in sub paragraph (a) above;

   (d) name and address of the company secretary;

   (e) address and telephone number of the registered office; and

   (f) address of each office at which register of securities is kept.

2. An issuer shall inform the Competent Authority and the exchange in writing without delay if it becomes aware that the proportion of its securities in the hands of the public has fallen below the minimum prescribed in these Requirements.

3. An issuer shall provide the applicable Competent Authority and the exchange details of its shareholders which may be required by the Competent Authority or the exchange.

ARTICLE 17
COMMUNICATION WITH SHAREHOLDERS

1. Any meeting of shareholders (other than an adjourned meeting) shall be called by a twenty-one day notice in writing. All notices convening meetings shall specify the place, date, hour and agenda of the meeting. If the conventional meeting place is changed, full justification for the change must be given. The place chosen must be convenient to the general body of shareholders.

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

   (a) inform holders of securities of the holding of meetings which they are entitled to attend;

   (b) enable them to exercise their right to vote, where applicable; and

   (c) publish notices or distribute circulars giving information on –

      (i) the allocation and payment of dividends and interest;

      (ii) the issue of new securities, including arrangements for the allotment, subscription, renunciation, conversion or exchange of the securities; and

      (iii) redemption or repayment of the securities.

3. A proxy form must be sent with the notice convening a meeting of holders of listed securities to each person entitled to vote at the meeting, and must comply with all requirements set out in the issuer's articles of association.

4. If a circular is issued to the holders of any particular class of security, the issuer must issue a copy or summary of that circular to the holders of all other listed securities.

5. The issuer must forward to the applicable Competent Authority and Exchange copies of:—

   (i) all circulars, notices, reports, announcements or other documents before they are issued; and

   (ii) all resolutions passed by the issuer at any general meeting of holders of listed securities within ten days after the relevant general meeting.

ARTICLE 18
CORPORATE GOVERNANCE

1. The Issuer shall meet the Corporate Governance requirements in the Directive of the EAC on Corporate Governance for Listed Companies.

2. Every issuer shall establish an audit committee and comply with guidelines on corporate governance issued by the applicable Competent Authority.

3. No person shall be director of more than three (3) listed companies at any one time in order to ensure effective participation on the Board.

4. No person shall be chairperson of more than two (2) public listed companies at any one time.

5. The issuer shall ensure continued retention of suitably qualified Board and Management.

6. Every issuer shall disclose in its annual reports a statement of the directors as to whether the issuer is complying with the Directive on Corporate Governance for Listed Companies.

7. The auditor of a listed company shall suitably be qualified and a member of the relevant professional body.

8. The Auditor services shall not be retained for a period exceeding five (5) consecutive years.

9. Upon completion of the above mentioned period of service, the Auditor may only be reappointed after expiration of a period of three (3) years.

ARTICLE 19
MISCELLANEOUS OBLIGATIONS

1. No further securities of the same class as securities already listed shall be issued or allotted to any person or listed, without the applicable Competent Authority's approval.

2. A copy of any contractual arrangement with a controlling shareholder must be made available for inspection by any person at the registered office of the issuer during normal business hours on each business day.

3. An issuer must ensure that appropriate transfer and registration arrangements for its listed securities have been made and holders of the listed securities notified.

4. An issuer shall obtain approval of shareholders and make a disclosure in the annual report, for any:-

   (a) acquisition of shares of another company or any transaction resulting in such other company becoming a subsidiary or related company of the issuer;

   (b) sale of shares in another company resulting in that company ceasing to be a subsidiary of the issuer; or

   (c) substantial sale of assets involving 25% or more of the value of the total assets of the issuer and shall make a public announcement of the fact.

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

PART V
SUSPENSION, DE-LISTING AND SANCTIONS

ARTICLE 20
SUSPENSION

1 An Exchange may suspend a listing of securities under the following circumstances:—

   (a) Where the Issuer has failed to comply with the requirements in this Directive and any other relevant listing requirements;

   (b) Where an Issuer is placed under statutory management, receivership, liquidation or voluntary winding up; and

   (c) Where there is a significant restructuring involving the listed securities such as in the process of acquisition, mergers or takeovers

2. Where a security has been suspended or delisted, the suspending or de-listing Exchange shall inform all others relevant Exchanges on which the Issuer's Securities are listed and publish such information as required under Article 12 (3).

3. The suspension procedure shall be as per the relevant Exchange rules governing suspension.

4. The suspension or de-listing of securities on an Exchange shall result in suspension on all other Exchanges where the securities are listed.

5. The Exchange shall notify the issuer of the suspension and reasons thereof within three (3) hours of such suspension.

6. A press release on the suspension shall then be made by the Exchange.

7. The Exchange may, subject to other regulations governing suspension of securities within that Partner State grant a request for suspension of any listed securities, where an issuer requests for suspension to the Exchange in writing, in any of the following circumstances:

   (a) where a decision has been made or is imminent that will lead to the placing of the issuer of such securities under statutory management, liquidation, receivership or voluntary winding up;

   (b) in the event of a significant restructuring involving the listed securities such as in the process of acquisition, mergers or takeovers; and

   (c) any other circumstance that the issuer considers important enough to suspend trading of its securities.

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

(a) continue to comply with all the continuous listing obligations, unless expressly exempted from doing so by the Exchange in writing;

(b) submit to the Exchange as may be required, a progress report pertaining to the prevailing state of the affairs of the issuer and any proposed action by the issuer; and

(c) if the issuer is suspended for more than three (3) months, advise its shareholders on a quarterly basis concerning the prevailing status of the affairs of the issuer and any proposed action by the issuer, including the expected date on which the suspension is to be lifted.

9. The maximum period of voluntary suspension shall be eighteen months unless extended by an Exchange.

10. The following procedure shall apply where the lifting of suspension is required by the issuer:—

(a) the issuer shall apply to the Exchange demonstrating that it has complied with the conditions for lifting of the suspension;

(b) the Exchange shall review the request of the issuer and determine whether the suspension should be lifted;

(c) the Exchange shall approve or decline lifting of the suspension;

(d) the issuer shall be informed of the lifting of the suspension after approval; and

(e) the Exchange shall then issue a public statement of the lifting of suspension and restoration of the securities of the issuer to listing and trading stating the approval.

ARTICLE 21
DELISTING

1. Failure of the issuer to satisfy continuous listing obligations within the predetermined period shall result in the securities of the issuer being de-listed.

2. Where a security is suspended from trading and the issuer fails to take the required action to obtain the restoration thereof within the time provided, the Exchange may de-list such securities.

3. After the decision of the Exchange to de-list, it shall inform the issuer and the relevant competent Authority.

4. In the public interest, the relevant competent Authority may require an Exchange to delist a security.

5. Following the de-listing, the Exchange shall make a public statement on the de-listing of securities.

6. Issuer’s voluntary de-listing shall comply with the procedure given hereunder in addition to the Regulations and Rules governing delisting in the relevant Partner State.

7. Any person directly or indirectly controlling the exercise of seventy five per cent (75%) or more of the votes attached to the voting shares of an issuer upon the passing of a special resolution in the manner prescribed in (c) below to remove such shares from the Official list, be deemed to have an intention to take-over such company and shall forthwith apply the prescribed procedures for take-overs as a pre-condition to the removal from listing.

8. A security considered by the Exchange to be eligible for continued listing shall not be removed from the list upon request or application of the issuer, unless the proposed withdrawal from listing is approved by the security holders at a general meeting at which at least seventy five per cent (75%) of such security holders are represented, without objection to the proposed withdrawal from at least ten per cent (10%) of the security holders of the security provided however that the Exchange shall not oppose de-listing action by the issuer if:

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

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

9. An issuer shall notify the Exchange within twenty four (24) hours of any decision by its Board of Directors to recommend to the holders of any listed security the de-listing of such listed security.

ARTICLE 22
LISTING FEES

The fee structure for regional listings shall be proposed by all the securities exchanges and approved by all the Competent Authorities.

ARTICLE 23
SANCTI0NS

1. The Exchange shall impose penalties for non-compliance in accordance with Schedule 6.

2. All penalties imposed by the Exchange shall be reported to all the relevant securities exchanges and the relevant Competent Authorities within seven (7) days of imposing penalty.

3. All monies paid as penalties shall go to the Investor Compensation Fund in accordance with the Investor on Investor Compensation Fund.

4. Any issuer who has been the subject of any such censure or penalty and who is dissatisfied with such action may appeal to the Competent Authority within thirty (30) days of the decision.

5. No censure or penalty may be imposed on an issuer who has already been censured or penalised by the Competent Authority or any other Regulator of that particular Partner State for the same offense.

ARTICLE 24
AMENDMENTS

1. This Directive may be amended by the Council of Ministers.

2. Any proposals for amendment may be submitted in writing by the Partner States to the Secretary General for submission to the Council of Ministers.

ARTICLE 25
IMPLEMENTATION

The Partner States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than one(1) year from the date of the Council of Ministers' approval. They shall forthwith inform the Council of Ministers thereof.

FIRST SCHEDULE

1. **The Application For Admission of Securities to the Official List**

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

(a) a statement that:
"It is understood that the granting of a listing pursuant to this application shall constitute a contract between the Issuer and the Exchange and that in giving the General Undertaking referred to in the Listing Document".

(b) full name of the issuer;

(c) the address of the registered office within the Community;

(d) regarding the issuer's share capital:

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

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

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

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

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

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

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

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

1.2 The application shall be signed by the secretary and a director of the issuer and the sponsoring stockbroker.

1.3 The application shall be accompanied by a resolution of the directors of the issuer authorising the application for admission to listing together with the applicable listing fee.

SECOND SCHEDULE
Application for additional listing

1. **INTRODUCTION**

The issuer shall meet all requirements for **additional** Issues as prescribed in the Directive for Public offers.

The disclosures shall be sufficient to enable the shareholders and especially minority shareholders to make an informed decision.

The issuer shall apply to the Exchange for approval to list. The said application shall be accompanied by a letter of approval from the Competent Authority and all documents submitted and approved by the Competent Authority with regard to the proposed Additional listing.

2. **ADDITIONAL COMPLIANCE ISSUES:**

i) **Availability of documents for inspection**

Documents relevant to the rights issue should be readily available for inspection by the shareholders and other interested parties. These include the following documents:

(a) the offer document;

(b) audited financial statements;

(c) copy of the Board and shareholders' resolutions authorising the issue;

(d) sample of the provisional letter of allotment;

(e) copies of the Certificate of Incorporation and the Memorandum and Articles of Association; and

(f) any other document required for inspection by the Exchange.

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

(ii) **Miscellaneous**

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

(b) **Timetables**

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

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

(ii) Securities traded cum rights;

(iii) Application to the Authority and the Exchange for approval of the rights issue;

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

(v) Circular and/or pre-issue statement and letters of provisional allocation posted to shareholders registered for the rights issue;

(vi) An announcement giving the terms and salient dates of the rights issue;

(vii) Last day for splitting provisional allotment letters;

(viii) Last day for trading cum rights;

(ix) Last date and time for acceptance and payment for new shares;

(x) Announcement giving the results of the rights offer;

(xi) Documents of title posted or electronic records available at the Central Depository;

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

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

(i) Publication of announcement, inclusive of price calculation;

(ii) Securities traded cum entitlement;

(iii) Record date for participation in capitalisation issue;

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

(v) Securities traded ex-entitlement;

(vi) Securities allotted and listed;

(vii) Dispatch of entitlement to shareholders;

(viii) Securities and listed Share Certificates posted or electronic records made available in the Central Depository;

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

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

(i) Publication of announcement inclusive of pricing calculation;

(ii) Securities traded cum entitlement;

(iii) Application and all other documentation submitted for approval by the committee;

(iv) Announcement of Record date for participation in scrip dividend;

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

(vi) Securities traded ex-entitlement;

(vii) Announcement of results of scrip dividend;

(viii) Securities allotted and listed;

(ix) Dispatch of entitlement to shareholders;

(x) Securities and electronic records made available in the Central Depository;

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

THIRD SCHEDULE

A letter of Undertaking by Sponsoring Stock Broker

We ***(name of Sponsoring stock broker)*** hereby undertake to:

(i) Discharge our responsibilities as a sponsoring stockbroker under the listing directive as amended from time to time;

(ii) Advise the Exchange in writing, without delay, of our resignation or dismissal from appointment, giving details of any relevant facts or circumstances

(iii) Provide a description of the interest held by the Sponsoring stockbroker, the firm or any director of that firm in the issuer or its subsidiaries; and

(iv) Acknowledge that the Exchange may censure us and publicise the censure and the reasons therefor if the Exchange considers that we are in breach of our responsibilities.

We declare that the information supplied is complete and correct and agree to comply with the requirements. We have ensured compliance with these requirements and the eligibility and disclosure requirements prescribed in the EAC Directive on Public Offers and have been issued with a letter of approval by the Competent Authority.

Signature

Name of signatory **Date**

Position

Signature

Name of signatory **Date**

Position

FOURTH SCHEDULE

DECLARATION BY SPONSORING STOCKBROKER

To: .... **Exchange**

Date ....

(Full name of sponsoring stockbroker)

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

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

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

SIGNED BY

director of ……………………………………………………………………………………

FOR OFFICIAL USE

Application to be heard on: ……………………………………………………………………….

Dealings expected to commence on: ……………………………………………………………………….

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

Telephone number: ……………………………………………………………………….

FIFTH SCHEDULE

DOCUMENTS TO BE SUBMITTED TO THE EXCHANGE

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

(i) Application for listing,

(ii) Authorizations:

(a) issuers Board resolution to list,

(b) Competent Authority approval letter,

(c) Shareholders resolution to list,

(d) Letter of no objection from primary competent authority and relevant regulators.

(iii) Contracts entered into in connection with the issue:

(a) Underwriting agreements if any,

(b) Contracts with registrars where applicable.

(iv) Certificate of Incorporation of the issuer or any other incorporation document,

(v) Declaration by the Sponsoring stockbroker in the form set out in the schedule 4,

(vi) Memorandum and Articles of Association of the issuer or any other constitutive documents,

(vii) A letter of approval for public offer and/or listing by the Authority,

(viii) Financial reports for the prescribed period,

(ix) Shareholdings and certificate of distribution in the form set out in the schedule

(x) Management Contracts (if applicable)

(xi) Letter of undertaking by Sponsoring Stock Broker

(xii) Schedule of Indebtedness including debt ratios

(xiii) List of documents available for inspection.

SIXTH SCHEDULE

Offence	Nature of penalty
(i) Late Submission of Audited Annual Accounts	• A letter notifying the issuer of non-compliance with submission of audited accounts within five days after the due date. • Letter of censure informing the issuer of being in contravention of this Directive sent 15 days after due date. • The Exchange shall make a public announcement of issuers that have not submitted or published audited accounts within 30 days from the due date. • A penalty of USD 1,000 shall be payable by every issuer that fails to comply within 30 days from the due date and thereafter the penalty shall accrue at the rate of USD 50 per day for a maximum of 30 days. • The Exchange may thereafter suspend the issuer as provided in this Directive.
(ii) Late Submission of Semi-Annual Accounts	• A letter notifying the issuer of non-compliance within 5 days after due date. • Letter of censure informing the issuer of being in contravention of this Directive sent 15 days after due date. • The Exchange shall make a public announcement of issuers that have not submitted or published audited accounts within 30 days from the due date. • A penalty of USD 200 shall be payable by every issuer that fails to comply within 30 days from the due date and thereafter the penalty shall accrue at the rate of USD 25 per day. • The Exchange can thereafter suspend the issuer as provided in this Directive.
(iii) Late notification of material information or disclosures	• Where an issuer has failed to make public disclosure of information that may reasonably be expected to have material effect on market activity in and prices of its securities, within 24 hours of the event, the Exchange shall issue a letter of censure to the defaulting issuer requiring the issuer to make such an announcement. • Where more than 7 days lapse between the occurrence of the event and the date of the announcement, the defaulting issuer shall be liable to a fine of USD 200 and thereafter the fine shall accrue at the rate of USD 25 per day until the public announcement. • Where the issuer fails to make a public announcement within 10 days of the event, the Exchange in consultation with the Authority may suspend trading of securities of the issuer for a period considered appropriate and restoration to trading of such securities shall be subject to a fine of USD 500.

Legal Notice No. EAC/26/2015.

DIRECTIVE EAC/EX/CN29/DIRECTIVE 17
OF THE COUNCIL OF MINISTERS

OF

(*29TH APRIL, 2014*)

ON ASSET BACKED SECURITIES (ABS)

PREAMBLE

The Council of Ministers of the East African Community

Having regard to the Treaty for the Establishment of the East African Community and in particular **Articles 85 (d), 14(3) and 16;**

WHEREAS Article 31 of the Protocol on the Establishment of the East African Community Common Market (Common Market Protocol) provides that for proper functioning of the Common Market the Partner States undertake to co-ordinate and harmonies their financial sector policies and regulatory frameworks to ensure the efficiency and stability of their financial systems as well as the smooth operations of the payment systems;

WHEREAS Article 47 of the Common Market Protocol provides that the Partner States shall undertake to approximate their national laws and to harmonize their policies and systems for purposes of implementing this Protocol and that the Council shall issue Directives for the purposes of implementing this Article.

HAS ADOPTED THIS DIRECTIVE

ARTICLE 1
INTERPRETATION

The following definitions shall apply with respect to Asset Backed Securities (ABS):

"Asset-Backed Securities (ABS)" means securities that are primarily serviced by the cash flows of a discrete pool of receivables or other financial assets, either fixed or revolving, that by their terms convert into cash within a finite period of time, plus any rights or other assets designed to assure the servicing or timely distributions of proceeds to the security holders.

"**competent authority**" means the National Regulatory Agency that is the primary supervising entity of securities markets in the Partner State;

"**Community**" means East African Community established by Article 2 of the Treaty;

"credit enhancement" means Rights or other assets designed to assure the servicing or timely distribution of proceeds to ABS holders. External credit enhancements may include, among other things, insurance or other guarantees, swap or hedging arrangements, liquidity facilities, and lending facilities. Internal credit enhancements may also be structured into the securitization transaction to increase the likelihood that one or more classes of ABS will pay in accordance with their terms. Examples of these include subordination provisions, overcollateralization, reserve accounts, and cash collateral accounts;

"Council of Ministers" means the Council of Ministers of the Community established by Article 9 of the Treaty;

"depositor" means Intermediate entity created by the Sponsor, and sells or transfers a group of assets from the Sponsor to the Issuing Entity for a securitization program. If the Sponsor does not use an intermediate entity to act as Depositor in a transaction, the Sponsor itself would be considered the Depositor;

"issuing entity (or issuer)" means Passive special purpose entity that issues ABS to investors that are either backed by or represent interests in the assets transferred to it. In some jurisdictions, the Issuing Entity is typically a trust with an independent trustee. The Issuing Entity is created at the direction of another entity, described in some jurisdictions as an Arranger, or as a Sponsor, that owns or holds the pool assets. The Issuing Entity is the entity in whose name the ABS supported or serviced by the pool assets are issued;

"originator" means Entity that creates the receivables, loans or other financial assets that will be included in the asset pool;

"servicer (or servicing agent)" means Entity responsible for the administrative management or collection for the pool assets, or for making allocations or distributions to holders of the ABS. The Servicer is responsible for carrying out the functions involved in administering the assets and calculate the amounts (net of fees) due to the ABS investors, and is often an affiliate of the Originator or Sponsor. In some jurisdictions, some of these functions are carried out by separate and independent entities that carry out custodial and administrative functions for the Issuing Entity;

"sponsor" means Entity that organizes and arranges a securitization transaction by selling or transferring assets, either entirely or indirectly, including through an Affiliate, to the Issuing Entity. The assets are either originated by the Sponsor or its affiliate, or are purchased by the Sponsor from the originators of the receivables, or in the secondary market;

ARTICLE 2
PRINCIPLES

In exercising its implementing powers in accordance with this Directive, the Partner States shall respect the following principles:

a) provide investors with a wide range of competing investment opportunities and a level of disclosure and protection tailored to their circumstances;

b) ensure confidence in capital markets by promoting high standards of transparency with regard to Asset Backed Securities;

c) encourage innovation in capital markets if they are to be dynamic and efficient;

d) assist in reducing the cost of, and increasing access to, capital; and

e) foster the international competitiveness of the Community's financial markets.

ARTICLE 3
OBJECTIVES

The objective of this Directive is to harmonize the standards for the eligibility, governance, organization, and operational conduct of those who wish to market or operate Asset Backed Securities in the securities markets of Partner States with a view to:

a) protecting investors;

b) ensuring fair, efficient and transparent markets;

c) reducing systemic risks;

d) allowing for cross border operation and marketing of Asset Backed Securities using a single set of disclosure standards/requirements; and

e) allow for multiple/simultaneous listings.

ARTICLE 4
SCOPE

This Directive shall apply to public offers of Assets Backed Securities in more than one Partner State.

ARTICLE 5
ISSUER OF ASSET BACKED SECURITIES

1. An Issuer of Asset Backed Securities shall be a company incorporated or registered under the Companies Act or the law applicable to companies of any Partner State or be of such other form as may be approved by a Competent Authority.

2. An issuer shall unless otherwise approved by a relevant Competent Authority, be a newly created entity with no pre-existing creditors or other claims against it other than formation expenses.

ARTICLE 6
APPROVAL OF ASSET BACKED SECURITIES

1. A person shall not offer an Asset Backed Security to the public in the Community's Securities Market unless an offer document on the Asset Backed Security has been approved by a Competent Authority.

2. The issuer shall elect a Partner State in which the issuer shall lodge the offer document. The issuer shall simultaneously submit the offer document to the Competent Authorities of other Partner States in which the issuer proposes to issue the Asset Backed Security.

3. Each Competent Authority approving the issue shall get an equal share of the evaluation fee of 0.1%. At all times the evaluation fee shall be a maximum of USD 200,000 and a minimum of USD 20,000.

ARTICLE 7
ORIGINATOR OF ASSET BACKED SECURITIES

The originator of Asset Backed Securities shall be:—

(a) a public company incorporated or registered under the Companies Act or the law applicable to companies of any Partner State;

(b) a statutory corporation, local authority or Government Ministry; or

(c) an entity established in any Partner State under the provision of any written law; and

(d) such other entity as may be approved by a Competent Authority.

ARTICLE 8
SPONSOR OF ASSET BACKED SECURITIES

1. The sponsor of Asset Backed Securities shall be:

(a) a public company incorporated or registered under the Companies Act or the law applicable to companies of any Partner State;

(b) a statutory corporation, local authority or Government Ministry; or

(c) an entity established in any Partner State under the provision of any written law.

2. The sponsor shall be considered to be the responsible party for the purposes of compliance with the law and this Directive.

3. Determination of which entity is a sponsor shall be made by the relevant Competent Authority considering the totality of circumstances of the issue, including without limitation initiative in creating the issue, origination of the assets, ownership of the assets, provision of credit enhancement and the flow of funds in the transaction. There may be one or more sponsors of the issue.

4. The sponsor may be an originator, depositor or servicing agent.

ARTICLE 9
AUDITOR OF AN ASSET BACKED SECURITY

1. An auditor appointed by an issuer shall be a person who is a member of the regulatory body for Accountants in any Partner State.

2. The auditor shall comply with International Standards on Auditing in conducting the audit of the issuer.

3. The auditor of an issuer shall:—

(a) have a registered address and physical place of business in any Partner State; and

(b) not be an affiliate of any participant in the securitization transaction or a close relation of any officer or director of any participant in the securitization transaction.

4. An auditor shall cease to hold his or her appointment as auditor of a securitization transaction if he or she ceases to fulfill any of the requirements of sub-articles (1) and (2) of this Article.

5. Where the issuer revokes the appointment of the auditor or there is a change of auditor, it shall immediately notify the Authority of the revocation and the reasons for it.

6. Where a vacancy occurs, the issuer shall as soon as practicable make a new appointment of an auditor.

ARTICLE 10
SERVICING AGENT OF AN ASSET BACKED SECURITY

An issuer shall appoint a servicing agent who shall be independent of the issuer, but may be a sponsor, originator or depositor.

ARTICLE 11
DEPOSITOR OF AN ASSET BACKED SECURITY

1. A depositor shall be a company incorporated or registered under the Companies Act or the law applicable to companies of any Partner State or be of such other form as may be approved by a relevant Competent Authority upon a determination that such other form complies with the requirements of this Directive.

2. A depositor may be a sponsor, originator or servicing agent.

3. A depositor may transfer to an issuer, assets which it originates or assets acquired from other originators.

ARTICLE 12
TRUSTEE OF AN ASSET BACKED SECURITIES HOLDERS

An issuer shall appoint a trustee who shall:—

(a) be the trustee for the asset backed securities holders;

(b) enforce the rights of the asset backed securities holders as against the issuer, credit enhancer or any other such person against whom the trustee and the asset backed securities holders have recourse; and

(c) have such other duties and obligations as indicated by the terms and condition of its trust deed.

ARTICLE 13
RESTRICTIONS ON ISSUERS OF ASSET BACKED SECURITIES

1. An issuer shall neither be marketed as a subsidiary or a company within the group of the originator nor shall the name of the issuer or the asset backed securities product imply any relation to the originator

2. An issuer shall not be voluntarily wound up until the asset backed securities issued by the issuer are fully redeemed in accordance with the terms and conditions of the asset backed securities

3. Written consent of the board of directors or governing body of the issuer and the relevant Competent Authority shall be sought before the commencement of any voluntary winding up proceedings of the issuer.

ARTICLE 14
ADVISORS TO THE ISSUE

1. An originator shall appoint an advisor from among duly licensed investment banks, stock brokers and investment advisers in the EAC which advisor shall be responsible for liaising with the Authority on the offer, issue or listing of the asset backed securities.

2. An originator may also appoint such other advisers as it deems necessary.

ARTICLE 15
TRADING, CLEARING AND SETTLEMENT

An issuer of asset backed securities in the EAC Securities Market shall comply with the trading, clearing and settlement directive.

ARTICLE 16
OFFER DOCUMENT

1. An application for approval for the offer, issue or listing of asset-backed securities shall be submitted to the relevant Competent Authority and shall disclose the following:—

(a) A term sheet setting out the salient terms and conditions of the structure of the proposed securitization transaction including:—

(i) name, date and place of incorporation, names and professions of directors, names and interests of shareholders and proposed structure of the Issuer;

(ii) name, date and place of incorporation, names and professions of directors, names and interests of shareholders of the originator;

(iii) names and addresses of the transaction advisers;

(iv) securitization transaction overview;

(v) proposed arrangements for the transfer of eligible assets and nature of the eligible assets;

(vi) currency and principal amount of proposed issue;

(vii) tenure of proposed issue;

(viii) details of proposed credit enhancement and provision of liquidity by the liquidity provider (where applicable);

(ix) details of utilization of proceeds;

(x) indicative credit rating;

(xi) confirmation on whether the offer is to be listed and structure of issue; and

(xii) conditions precedent;

(b) documents relating to the originator including:—

(i) a resolution of the Board of Directors approving the transfer of eligible assets to the issuer; and

(ii) a written consent from any existing secured creditor enjoying any security interest of any nature over the proposed eligible assets agreeing to wholly discharge their security in respect of the eligible assets to be transferred;

(c) where the originator is a company incorporated under the Companies Act or the law applicable to companies of any of the Partner State it shall submit a certified copy of its certificate of incorporation including any certificate of change of name and the memorandum and articles of association;

(d) the constitution documents relating to the issuer together with a written undertaking to comply with the requirements of these Regulations;

(e) declarations from the originator, issuer and adviser confirming that they have taken all reasonable care in structuring the issue, preparing the information memorandum and developing all projections on performance;

(f) a legal opinion confirming that the transferred eligible assets would not be available to the creditors, liquidators or receiver managers of the originator in the event of the bankruptcy, winding up, insolvency or receivership of the originator;

(g) all reports by any expert included or referred to in the information memorandum;

(h) draft copies of material contracts (where applicable) including the credit-enhancement agreement, proposed servicing agreement between the issuer and servicing agent and guarantee agreement where applicable;

(i) duly executed declarations by the directors of the issuer;

(j) where applicable, a letter of "no objection" from the relevant primary regulator of the originator;

(k) a credit rating report of the proposed issue from an independent credit rating agency;

(l) functions and responsibilities of significant parties involved in the securitization transaction;

(m) information on the composition and characteristics of the asset pool;

(n) obligor of pool assets;

(o) description of the asset backed securities;

(p) risk factors;

(q) exchange or other regulated market on which the ABS will be listed and traded;

(r) applicable taxes;

(s) information on pending or ongoing legal proceedings;

(t) affiliations and certain relationships and related transactions; and

(u) material contracts.

ARTICLE 17
ONGOING DISCLOSURE

The competent authorities shall adopt the International Organisatoin of Securities Commission (IOSCO) Principles for ongoing disclosure for asset backed securities provided in the Schedule.

ARTICLE 18
IMPLEMENTATION

Partner States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than one (1) year from the date of the Council of Ministers' approval. They shall forthwith inform the Council of Ministers thereof.

ARTICLE 19
AMENDMENTS

1. This Directive may be amended by the Council of Ministers.

2. Any proposals for amendment may be submitted in writing by the Partner States to the Secretary General for submission to the Council of Ministers.

SCHEDULE I

PRINCIPLES FOR ONGOING DISCLOSURE FOR ASSET BACKED SECURITIES

1. **Principle 1: Information regarding ABS should be provided on a periodic basis.**
Updated information regarding the ABS should be disclosed in reports prepared on an annual and other periodic basis, as appropriate to the type of information to be disclosed and its usefulness to investors.

2. **Principle 2: Material events regarding ABS should be disclosed in event based reports.**
The occurrence of material events and other current or ad hoc information should be disclosed in event-based disclosure reports.

3. **Principle 3: Periodic and event-based disclosure should contain sufficient information to increase the transparency and to enable investors to perform due diligence in their investment decisions independently.**

Periodic and event-based disclosure should contain sufficient information in order to increase the transparency of information for investors and to allow investors to independently perform due diligence in their investment decisions regarding the specific ABS including:—

(a) updated information on the parties involved in the ABS;

(b) financial Information about Significant Obligors;

(c) information regarding significant enhancement providers;

(d) derivative Instruments;

(e) legal Proceedings;

(f) affiliations and certain relationships and related transactions.

(i) affiliations among participants in the Securitization Transaction;

(ii) relationships outside the Ordinary Course of Business Among Participants in the Securitization transaction;

(iii) relationships Related to the Securitization Transaction or Pool Assets.

(g) assessment of Compliance with Applicable Servicing Criteria.

(h) distribution and Pool Performance Information.

(i) asset Information;

(i) asset Impairment Information;

(i) repurchase and Replacement Activity.

(j) event-Based Reporting.

(i) change of servicer or trustee;
(ii) change in credit enhancement or other external support;
(iii) failure to make a required distribution;
(iv) changes to credit rating;
(v) change of credit rating agency from which a rating has been obtained;
(vi) changes to the credit check policy;
(vii) payment and Performance Information;
(viii) early redemption.

4. **Principle 4: Disclosure should be complete, clear, and not misleading.**

The information disclosed in ongoing reports should not be misleading or deceptive and should not contain any material omission of information. Moreover, information disclosed in an ongoing report should be presented in a clear and concise manner without reliance on boilerplate language.

5. **Principle 5: Disclosure should be presented to facilitate analysis by investors.**
Disclosure should be presented in a format that facilitates the analysis of information by investors.

6. **Principle 6: Parties responsible for the disclosure should be clearly identified.**
The person or entity responsible for publishing the disclosure and the person or entity responsible for gathering the information from other persons or entities involved in the ABS should be clearly identified.

7. **Principle 7: Information should be available to the public on a timely basis.**
The information provided in the ongoing report should be disclosed in a timely manner, such that the information is sufficiently current and disclosed with sufficient frequency so as to be of use to investors.

8. **Principle 8: All investors and market participants should have equal and simultaneous access to disclosure.**
Material information that is disclosed to any investor, market participant or other third party should be provided to all investors, market participants and other third parties at the same time.

9. **Principle 9: Disclosure standards shall be the same in all markets.**
If securities are listed or admitted to trading in more than one jurisdiction, the material periodic information made available to one market should be made available promptly to all markets in which they are listed.

10. **Principle 10: Ongoing reports should be filed with or otherwise made available to the relevant regulator.**
Ongoing reports should be filed with the relevant regulator or otherwise made available in compliance with applicable regulations to permit regulators to review the reports, when appropriate, to ensure compliance with the relevant laws and regulations.

11. **Principle 11: The information should be stored to facilitate public access to it.**
The relevant law or regulation should ensure that there is storage of the ongoing information in order to facilitate public access to the information.

Legal Notice No. EAC/27/2015.

DIRECTIVE EAC/EX/CN29/DIRECTIVE 17
OF THE COUNCIL OF MINISTERS

OF

(*29TH APRIL, 2014*)

ON CORPORATE GOVERNANCE FOR SECURITIES MARKET INTERMEDIARIES

PREAMBLE

The Council of Ministers of the East African Community

Having regard to the Treaty for the Establishment of the East African Community and in particular Articles 85 (d), 14(3) and 16;

WHEREAS Article 31 of the Protocol on the Establishment of the East African Community Common Market (Common Market Protocol) provides that for proper functioning of the Common Market the Partner States undertake to co-ordinate and harmonies their financial sector policies and regulatory frameworks to ensure the efficiency and stability of their financial systems as well as the smooth operations of the payment systems;

WHEREAS Article 47 of the Common Market Protocol provides that the Partner States shall undertake to approximate their national laws and to harmonize their policies and systems for purposes of implementing this Protocol and that the Council shall issue directives for the purposes of implementing this Article;

HAS ADOPTED THIS DIRECTIVE

ARTICLE 1
INTERPRETATION

In this Directive, unless the context otherwise requires—

"Board" means the board of directors of the market intermediary;

''Competent Authority" means the national regulatory agency that is the primary supervising entity of securities markets in the partner states.

"close relation" means a relationship supported by documentary evidence of a spouse, parent, sibling, child, father-in-law, son-in-law, daughter-in-law, mother-in-law, brother-in-law, sister-in-law, grand child or spouse of a grandchild;

"management of a market intermediary" means the persons who the Competent Authority has been informed, in writing, are responsible for the day to day administration of a market intermediary;

"market intermediary" means an entity licensed or approved by a Competent Authority in the Partner State;

''Directors" in relation to a market intermediary, includes a person occupying the position of a director (by whatever name called) and any person in accordance with whose directions or instructions (not being advice given in a professional capacity) the directors of that body are accustomed to act;

"independent non-executive director" means a director who:

(a) has not been employed by the market intermediary in an executive capacity within the last five years;

(b) is not associated to an adviser or consultant to the market intermediary or a member of the market intermediary's senior management or a person employed by the market intermediary in an executive capacity within the last five years or a significant client or supplier of the market intermediary or with a not-for-profit entity that receives significant contributions from the market intermediary or within the last five years, has not had any business relationship with the market intermediary (other than service as a director) for which the market intermediary has been required to make disclosure;

(c) does not have contract of service with the market intermediary, or a member of the market intermediary's senior management;

(d) is not a close relation of an adviser consultant to the market intermediary or a member of the market intermediary's senior management or a significant client or supplier of the market intermediary; or

(e) has not had any of the relationships described in paragraphs (a), (b), (c) and (d) with any affiliate of the market intermediary.

"Secretary General" means the Secretary General of the Community appointed under Article 67 of the Treaty;

"Treaty" means the Treaty for the Treaty for the Establishment of the East African Community.

ARTICLE 2
PRINCIPLES

The Competent Authority in an EAC Partner State shall abide by the following Corporate Governance Principles:

1. The Market Intermediaries shall ensure that they have an effective board in place that is responsible for the conduct and governance of its securities business;

2. The Board of Directors shall reflect a balance between Independent, Executive, and Non-Executive Directors of diverse skills, gender and expertise; and

3. There shall be a separation of the roles and responsibilities of the Chairperson and Chief Executive which will ensure balance of power of relevant Competent Authority and provide for checks- and balances such that no individual has unfettered powers of decision making.

ARTICLE 3
OBJECTIVE

The objective of this Directive is to harmonize the standards on Corporate Governance in the securities markets of the Partner States by market intermediaries with a view to—

(a) protecting investors;

(b) ensuring fair, efficient and transparent markets; and

(c) reducing systemic risks.

ARTICLE 4
SCOPE

This Directive shall apply to all market intermediaries licensed or approved by a Competent Authority in an EAC Partner State to deal in securities or any other transactions incidental to dealing in securities.

ARTICLE 5
DIRECTORS

(1) The Board of a market intermediary shall be composed of:

(a) a minimum of three directors;

(b) at least one third independent non–executive directors; and

(c) not more than one third of the directors who are close relations.

(2) A person shall not be a director in more than two market intermediaries unless the market intermediaries are subsidiaries or holding companies.

(3) A market intermediary shall not change the composition of its board without the prior written consent of the Competent Authority.

ARTICLE 6
THE ROLE OF THE CHAIRMAN OF THE BOARD

(1) The Chairman of the Board shall be a Non-Executive Director.

(2) The Chairman of the Board shall have the following roles:—

(a) ensuring the integrity and effectiveness of the Board governance process, leadership of the board, and setting its agenda;

(b) ensuring that the Directors receive accurate, timely and clear information;

(c) facilitating meetings of the board; and

(d) ensuring that no board member dominates the discussions and that relevant discussions take place such that the opinion of all board members relevant to the subject and discussions are solicited and freely expressed leading to appropriate decisions.

(e) ensuring that the directors continually update their skills and the knowledge and familiarity with the company required to fulfill their role both on the board and on board committees.

ARTICLE 7
FIT AND PROPER REQUIREMENTS FOR APPOINTMENT AS DIRECTOR

(1) A market intermediary shall not appoint a person to be a director unless—

(a) that person is fit and proper as stipulated in any Partner State to hold such a position; and

(b) that person has received relevant training in corporate governance.

(2) The market Intermediary shall ensure that any person appointed as a Director undergoes Corporate Governance training within six months of appointment.

ARTICLE 8
REGISTER OF DIRECTORS

A market intermediary shall keep a register of its directors and avail the register for inspection by the public, without any charge, at its registered office.

ARTICLE 9
THE BOARD

1. A market intermediary shall have a board that shall lead, control and shall be collectively responsible for the conduct and governance of its securities business.

2. The board shall provide leadership within a framework of prudent and effective control that facilitates risk assessment and management.

3. The board shall ensure that the necessary financial and human resources are available to meet its objectives and review management performance.

4. The chairman of the board shall not be appointed as the chief executive officer of the market intermediary, and the board shall distinguish and specify the roles and responsibilities of the chairman and chief executive, in writing.

5. The chairman of the board shall be a non-executive director.

ARTICLE 10
STRATEGIC DIRECTION AND CONTROL

(1) The Board shall:

(a) give strategic direction to a market intermediary;

(b) ensure the integrity of a market intermediary's accounting and financial reporting systems, including provision for independent audit, and that the appropriate systems for risk management and financial and operational control are in place;

(c) maintain effective control and monitor the management of a market intermediary in implementing its plans and strategies; and

(d) ensure that the market intermediary complies with this Directive.

ARTICLE 11
ACCOUNTABILITY AND RESPONSIBILITY

(1) The Board shall be responsible and accountable for the performance and conduct of the business of the market intermediary.

(2) The Board shall keep and maintain a schedule of the matters reserved for its decision and ensure that it directs and controls the affairs of the organisation.

(3) The Board shall not be discharged from its duties and responsibilities for matters delegated to committees of the Board or to the management of a market intermediary.

ARTICLE 12
CODE OF CONDUCT

(1) The Board shall develop a code of conduct for the directors, management and staff that addresses all the issues prescribed in the code of conduct set out in the Schedule or adopt the code of conduct in the Schedule.

(2) Provided that where the code of conduct developed by the Board of a market intermediary does not address all the issues set out in, or is inconsistent with, the code of conduct set out in the Schedule, the code of conduct set out in the Schedule shall apply to the extent of such omission or inconsistency.

ARTICLE 13
BOARD CHARTER

In order to discharge its responsibilities, the Board shall prepare and write a charter that—

(a) confirms its responsibility for the adoption of strategic plans, monitoring the operational performance, the determination of policy and processes that ensure the integrity of the market intermediary's risk management and internal controls;

(b) reserves specific powers to itself and delegates other matters to the management of a market intermediary;

(c) provides a corporate code of conduct that addresses conflict of interest, relating to directors and management, which shall be regularly reviewed and updated as necessary; and

(d) identifies key risk areas, that require regular monitoring.

ARTICLE 14
BOARD MEETINGS

(1) The Board shall meet at least once in every three calendar months to review the market intermediary's processes and procedures to ensure the effectiveness of its internal systems of control.

(2) The Board shall, at the beginning of each financial year, prepare an annual schedule of meetings of the market intermediary.

ARTICLE 15
REMUNERATION OF DIRECTORS

The remuneration of directors and the chief executive of a market intermediary shall be commensurate with the nature and size of operations of the market intermediary and the remuneration offered for similar positions in the market.

ARTICLE 16
COMMITTEES

(1) The Board shall establish an Audit Committee and such other committees, as it considers necessary and specify their terms of reference, in writing, including the reporting procedures and a written scope of authority.

(2) The Audit Committee shall, among others:

(a) review regular internal audit reports prepared by the market intermediary's internal auditor for management and management's response to such reports;

(b) review the market intermediary's periodical financial statements and any other financial reports or financial information, when necessary;

(c) review with management and external auditors:—

(i) the audited and unaudited financial statements of a market intermediary before they are released to the public;

(ii) the effectiveness of the documented risk management policy report for the assessment, monitoring and managing the possible risk exposure;

(d) review the effectiveness of the internal controls of the market intermediary and other matters affecting the financial performance and financial reporting of a market intermediary, including information technology, security and control;

(e) review the external auditors' proposed audit scope and approach;

(f) monitor compliance of a market intermediary with its code of conduct and ethics;

(g) consider the work plan of the market intermediary compliance activities;

(h) review the Audit Committee Charter and the Internal Audit Charter;

(i) regularly report to the board on the activities of the market intermediary, issues and related recommendations; and

(j) institute and oversee special investigations, when necessary.

(3) The Board may, refer to a relevant committee established under paragraph (1), any matter for consideration, determination, inquiry or management.

(4) A decision of a committee shall not bind a market intermediary unless the decision has been presented to the Board for consideration and ratification.

ARTICLE 17
CORPORATE GOVERNANCE FRAMEWORK

(1) A market intermediary shall establish a corporate governance framework that provides—

(a) strategic guidance of the market intermediary that promotes the effective monitoring of the management and accountability of the Board;

(b) availability and documentation of timely and accurate information relating to the market intermediary, including its financial structure, performance, ownership and governance.

(2) The Board shall review the management of the market intermediary, operations, accounts, major capital expenditure and corporate performance at least once in every three months.

(3) The Board shall review its corporate governance structure at least once in every three years.

(4) The Board shall document the results of the reviews conducted under paragraphs (2) and (3).

ARTICLE 18
RESPONSIBILITIES OF SHAREHOLDERS

(1) The shareholders of a market intermediary shall, jointly and severally, protect, preserve and actively exercise relevant Competent Authority over the institution in general meetings.

(2) The shareholders shall:

(a) elect or appoint persons who are fit and proper, have the relevant experience and qualifications, and can provide effective leadership and guidance in the business of the market intermediary to the Board of Directors;

(b) ensure that, the Board is through general meetings and related forums, constantly held accountable and responsible for the efficient and effective governance of the market intermediary; and

(c) to utilise powers vested in general meetings to change the composition of a Board of Directors that does not perform to expectation or in accordance with the mandate of the market intermediary.

(3) The shareholders of a market intermediary shall ensure that the market intermediary applies to the relevant Competent Authority for approval for any acquisition or transfer resulting in a person being entitled to exercise control of over five per centum or more of the share capital of the intermediary.

(4) A market intermediary shall obtain the approvals required under paragraph (3), before the allotment of shares.

(5) A market intermediary shall not appoint a shareholder who holds more than twenty-five per centum shareholding in a market intermediary as an executive director of the market intermediary or to any senior position in the management of the market intermediary.

ARTICLE 19
APPOINTMENT OF EMPLOYEES

(1) The Board shall formulate a policy for the appointment of employees, which shall be approved by the relevant Competent Authority.

(2) The Board shall review the policy formulated under paragraph (1) at least once in every three (3) years and submit any changes made to the policy to the relevant Competent Authority for approval.

ARTICLE 20
CHIEF EXECUTIVE OFFICER

(1) The chief executive officer of a market intermediary shall be responsible for the day to day running of the market intermediary and shall:

(a) implement the policies and the corporate strategy developed by the bBoard;

(b) identify and recommend to the board, employment of officers who are competent to manage the operations of the market intermediary;

(c) co-ordinate the operations of the departments within the market intermediary;

(d) establish and maintain efficient and adequate internal control systems for the management of the market intermediary;

(e) design and implement management information systems necessary to facilitate efficient and effective communication within the market intermediary;

(f) regularly appraise the board adequately on the operations of the market intermediary; and

(g) ensure that the market intermediary complies with this Directive.

(2) A market intermediary shall not change its shareholders, directors, chief executives or key personnel without prior consent , in writing, by the relevant Competent Authority.

ARTICLE 21
SEPARATION OF EMPLOYEES' DUTIES

(1) The management of a market intermediary shall maintain adequate separation of employee duties, particularly among:

(a) those responsible for incurring commitment;

(b) those responsible for making payments; and

(c) those responsible for preparing accounts.

(2) The market intermediary shall maintain such internal controls, functional lines and systems to restrict the flow of information between key departments or other demarcations as may be considered necessary.

ARTICLE 22
EMPLOYEES

(1) The Board shall ensure that all employees are fit and proper for their roles; including having the necessary qualifications and experience for their responsibilities and that there is no evidence of lack of probity and capacity in managing their own financial affairs or those of clients.

(2) The management of a market intermediary shall determine and document the experience and qualifications for each post that shall meet any relevant requirements of the relevant Competent Authority.

(3) The management shall ensure and document that all employees have an appropriate training programme based on the needs of the market intermediary and the requirements of the relevant Competent Authority.

ARTICLE 23
FINANCE OFFICERS AND INTERNAL AUDITORS

The chief finance officer or any other person who is responsible for the finance department of a market intermediary and the person responsible for the internal audit function, shall be members of the relevant professional accounting body.

ARTICLE 24
INTERNAL AUDIT

(1) The market intermediary shall establish an effective internal audit function.

(2) The Board shall formulate an internal audit charter to bring a systematic, disciplined approach, to evaluate and improve the effectiveness of risk management, control and governance processes that defines the purpose and responsibility of the internal audit function.

(3) The internal audit charter shall provide—

(a) assurance that the management processes are adequate to identify and monitor significant risks;

(b) confirmation of the effective operation of the established internal control system;

(c) credible processes for feedback on risk management and assurance; and

(d) objective confirmation that the board receives the right quality of assurance and information from management and that this information is reliable.

ARTICLE 25
INTERNAL AUDITOR

The Board shall appoint an internal auditor who shall—

(a) not be the compliance officer and shall not be involved in any function that is being audited;

(b) have sufficient authority to carry out his function as an internal auditor;

(c) have direct access to the board;

(d) subject to the oversight of the audit committee, develop an internal audit programme; and

(e) submit quarterly reports to the audit committee.

ARTICLE 26
EXTERNAL AUDITOR ROTATION

The External Auditor or the Audit Partner of the Audit firm of a Market Intermediary shall not be retained for a period exceeding four (4) consecutive years. Upon completion of the above mentioned period of service, the auditor or the Audit Partner may only be reappointed after the expiration of three (3) years.

ARTICLE 27
RESPONSIBILITY FOR RISK MANAGEMENT

(1) The Board shall be responsible for the development and implementation of the process of risk assessment and management and shall regularly review the effectiveness of the process.

(2) The management of a market intermediary shall be accountable to the Board for designing, implementing, monitoring and integration of the risk management process into the day-to-day business of the market intermediary.

(3) The Board shall appoint a risk management officer to:

(a) assist the board in the discharge of its duties relating to corporate accountability and risk management, assurance and reporting;

(b) review and assess the integrity of the risk control systems and ensure that the risk policies and strategies are effectively managed;

(c) define the nature, role, responsibility and authority of the risk management function of the market intermediary;

(d) monitor external developments relating to the practice of corporate accountability and the reporting of associated risk, including emerging and prospective impact;

(e) provide independent and objective oversight and review of the information presented by management on corporate accountability and specifically associated risk, taking account of risk concerns raised by management at the audit committee meetings on financial, business and strategic risk; and

(f) obtain such external or other independent professional advice as he or she considers necessary to carry out his or her duties.

ARTICLE 28
ANNUAL REVIEW

The Board shall, annually, review its risk management procedures and contingency plans, and document the results and conclusions of such reviews.

ARTICLE 29
INFORMATION MANAGEMENT SYSTEM

The Board shall ensure the development and implementation of an information management system that provides information relating to its implementation, the effect of the board's policies and procedures, the realization of risks, substantial market positions and the financial position of the market intermediary.

ARTICLE 30
RESPONSIBILITY FOR INTERNAL CONTROLS

(1) The Board shall be responsible for the market intermediary's system of internal controls.

(2) The Board shall establish and monitor appropriate policies on internal controls and satisfy itself that the system is functioning effectively.

(3) The Board shall adopt procedure manuals to implement its policies and controls.

ARTICLE 31
PERIODICAL REVIEW OF INTERNAL CONTROLS

(1) The management of a market intermediary shall be accountable to the board for monitoring the system of internal controls and reporting on such monitoring activities.

(2) The Board shall at least once every three (3) years review and enquire, based on the information and assurances provided to it by management of a market intermediary, to determine the effectiveness of internal controls established by the management of the market intermediary.

(3) The Board shall document the results and conclusions of its periodic reviews and actions taken thereon.

ARTICLE 32
REPORTS TO THE BOARD

The Board shall amongst others consider risk assessment and risk management reports and annual corporate governance compliance reports

ARTICLE 33
BOARD RECORDS

The Board shall maintain a record of all the decisions of the board and all actions taken to comply with the regulatory requirements of the relevant Competent Authority.

ARTICLE 34
EXEMPTION OR VARIATION OF APPLICABILITY

(1) Subject to paragraphs (2) and (3), the relevant Competent Authority may, upon an application, made in writing by a market intermediary, where it considers it appropriate in the special circumstances of the market intermediary, exempt from or vary the application of Article 16, 18, 21 23,24,25 and 27, to the market intermediary:

Provided that in all circumstances where the relevant Competent Authority grants an exemption or a variation, it shall indicate the period for which the exemption or variation shall be valid.

(2) A market intermediary shall, in the application, provide the reasons for seeking an exemption or variation and shall specify any other alternative arrangements that it shall establish to comply with the regulatory requirements.

(3) A market intermediary shall, despite having made an application under paragraph (1), comply with the respective regulatory requirements until the relevant Competent Authority formally exempts it or varies the regulatory requirements, in writing.

(4) Where the relevant Competent Authority grants an exemption or variation under this regulation, it shall give the reasons for the grant, in writing, and shall publish the exemption or variation.

(5) Any market intermediary that has obtained an exemption or variation under this regulation shall, immediately report to the relevant Competent Authority any change in its circumstances that may reasonably be of relevance in the determination of whether it shall continue to enjoy the exemption or variation.

(6) The relevant Competent Authority may revoke or reverse any exemption or variation where it is satisfied that there has been a change in the circumstances that gave rise to the grant of the exemption.

(7) The relevant Competent Authority shall, for the purposes of determining the special circumstances of a market intermediary under these regulations, prescribe an assessment criteria.

ARTICLE 35
REMEDIAL MEASURES AND ADMINISTRATIVE SANCTIONS

(1) When a market Intermediary finds that a director or an officer is not fit and proper to work for a market intermediary, the affected market intermediary shall:

(a) terminate the services of such a director or officer;

(b) immediately put in place mechanisms to mitigate any loss or damage to clients, the business or the market as a whole resulting from such termination of services; and

(c) inform the relevant Competent Authority of such a decision and actions being taken immediately.

(2) All directors of a market intermediary shall be liable jointly and severally to indemnify the market intermediary against any loss arising from the contravention of any of the provisions of this Directive.

(3) A market intermediary that contravenes a requirement of this Directive commits a disciplinary offence that may lead to sanctions and/or penalties under this directive.

ARTICLE 36
AMENDMENTS

1. This Directive may be amended by the Council of Ministers.

2. Any proposals for amendment may be submitted in writing by the Partner States to the Secretary General for submission to the Council of Ministers.

ARTICLE 37
IMPLEMENTATION

Partner States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than one (1) year from the date of the Council of Ministers' approval. The Partner States shall forthwith inform the Council of Ministers thereof.

SCHEDULE

PRESCRIBED CODE OF CONDUCT

1. Conflict of Interest

Directors, management and staff shall not engage directly or indirectly in any business activity that competes or conflicts with the market intermediary's interest or those of its clients unless fully disclosed to the clients. These activities include, although are not necessarily limited to, the following:

(a) Outside Financial Interest: Where directors, management or staff have a financial interest in a client, such an interest must be disclosed immediately to the management and the client. Thereafter, the affected director, member of management or employee shall not be directly involved in the market intermediary's dealings with the client so long as the interest continues to exist.

(b) Other Business Interests: It is considered a conflict of interest if an executive director, member of management or member of staff conducts business other than the market intermediary's business during office hours.

Where the acquisition of any business interest or participation in any business activity outside the market intermediary and office hours demands excessive time and attention from the member of staff, thereby depriving the market intermediary of the employee's best efforts on the job, a conflict of interest is deemed to exist.

(c) Other Employment: Before making any commitment, executive directors, management and employees are to discuss possible part-time employment or other business activities outside the market intermediary's working hours with their manager or departmental head. A written approval of the board of directors, chief executive, manager or departmental head respectively shall be obtained before an executive director, member of management or employee embarks on part-time employment or other business activities. Approval shall be granted only where the interest of the market intermediary will not be jeopardized.

(d) Corporate Directorship: Employees, members of management and executive directors must not solicit corporate directorships. All such persons shall not serve as a director of another corporation without approval of the board of directors. Those who hold directorships without such approval must seek approval immediately, if they wish to remain as directors of other corporations. However, such persons may act as directors of non-profit public service corporations, such as religious, educational, cultural, social, welfare, and philanthropic or charitable market intermediaries, subject to policy guidelines of the market intermediary.

(e) Trusteeships: Directors, management and staff must not solicit appointments as executors, administrators or trustees of clients' estates. If such an appointment is made and the individual is a beneficiary of the estate, his signing relevant Competent Authority for the estate's bank account or accounts must be approved by the board of directors, who will not unreasonably withhold such approval.

2. Misuse of Position

(a) Directors, management and staff must not use the market intermediary's name or facilities for personal advantage in political, investment or retail purchasing transactions, or in similar types of activities. Such persons and their relatives must also not use their connection with the market intermediary to borrow from or become indebted to clients or prospective clients. The use of position to obtain preferential treatment, such as purchasing goods, shares and other securities, is prohibited.

(b) Directors, management and staff must not solicit or otherwise accept inducements either directly or indirectly whether in cash or in kind in order to provide any favours to a client in the conduct of the business of the market intermediary to which they are entrusted either jointly or individually.

(c) Further, directors, management and staff must not use the market intermediary's facilities and influence for speculating in securities, whether acting personally or on behalf of friends or relatives. Such misuse of position may be ground for dismissal and prosecution.

(d) Directors, management and staff shall also not engage in "back-scratching" exercises with employees and directors of other market intermediaries to provide mutually beneficial transactions in return for similar facilities, designed to circumvent these ethical guidelines.

3. Misuse of Information

(a) Directors, management and staff shall not deal in the securities of any company listed or pending listing on a stock exchange at any time when in possession of information, obtained by virtue of employment or connection with the market intermediary, which is not generally available to shareholders of that company and the public, and which, if it were so available, would likely bring a material change in the market price of the shares or other securities of the company concerned. "insider dealing" as this is called, is a crime.

(b) Directors, management and staff who possess insider information are also prohibited from influencing any other person to deal in the securities concerned or communicating such information to any other person, including other members of staff who do not require such information in discharging their duty.

4. Integrity of Records and Transactions

(a) Accounting records and reports must be complete and accurate. Directors, management and staff shall never make entries or allow entries to be made for any account, record or document of the market intermediary that are false and would obscure the true nature of the transaction, as well as to mislead the true authorization limits or approval authority of such transactions.

(b) All records and computer files or programmes of the market intermediary, including personnel files, financial statements and client information must be accessed and used only for management purposes for which they were originally intended.

5. Confidentiality

(a) Confidentiality of relations and dealings between the market intermediary and its clients is paramount in maintaining the market intermediary's reputation. Thus directors, management and staff must take precaution to protect the confidentiality of client information and transactions. No member of staff, management or director shall during, or upon and after termination of employment with the market intermediary (except in the proper course of his duty and or with the market intermediary's written consent) divulge or make use of any secrets, copyright material, or any correspondence, accounts of the market intermediary or its clients. No member of staff, management or director shall in any way use information so obtained for financial gain.

(b) Business and financial information about any client may be used or made available to third parties only with prior written consent of the client or in accordance with the arrangements for the proper interchange of information between market intermediaries about credit risks, or when disclosure is required by law.

6. Fair and Equitable Treatment

All business dealing on behalf of the market intermediary with the current potential clients, with other members of staff and with those who may have cause to rely upon the market intermediary, shall be conducted fairly and equitably. Staff, management and directors must not be influenced by friendship or association, either in meeting a client's requirement, or in recommending that they be met.

Such decisions must be made on a strictly arms-length business basis. All preferential transactions with insiders or related interests shall be avoided. If transacted, such dealings shall be in full compliance with the law, judged on normal business criteria basis and fully documented and duly authorized by the Board of Directors or any other independent party.

7. Insider Loans

Directors, management and staff shall not use their positions to further their personal interests. A market intermediary shall not:

(a) Grant, or permit to be outstanding, any unsecured advances in respect of any of its employees or their associates.

(b) Grant, or permit to be outstanding, any advances, loans or credit facilities which are unsecured or advances, loans or credit facilities which are not fully secured to any of its officers, significant shareholders or their associates.

(c) Grant or permit to be outstanding any advance, loan or credit facility to any of its directors or other person participating in the general management of the market intermediary unless it is:

(i) approved by the full board of directors of the market intermediary upon being satisfied that it is viable.

(ii) made in the normal course of business and on terms similar to those offered to ordinary clients of the market intermediary. The market intermediary shall notify the relevant Competent Authority of every such approval within seven days of the granting of the approval.

d) Grant any advance or credit facility or give guarantee or incur any liability or enter into any contract or transaction or conduct its business or part thereof in a fraudulent or reckless manner or otherwise than in compliance of this Directive.