THE CAPITAL MARKETS DISASTER RECOVERY GUIDELINES

Guideline

The Capital Markets Disaster Recovery Guidelines

(Under section 101 of the Capital Markets Authority Act, Cap. 84)

IN EXERCISE of the powers conferred on the Capital Markets Authority ("Authority") by section 101 of the Capital Markets Authority Act ("The Act"), these guidelines are made this 20th day of October, 2005.

PART I – PRELIMINARY

1. These Guidelines shall be referred to as the Capital Markets Disaster Recovery Guidelines. — Title

2. The Authority has developed these Guidelines as a minimum standard for disaster recovery practices by regulated persons in response to the growing importance of disaster recovery and contingency planning both in emerging and developing economies. — Application

3. Disaster recovery, for the purposes of these Guidelines is defined as a process by which an organization able to deal with potential disasters and make provision for the continuation of normal functions. — Definition of disaster recovery for the purposes of these Guidelines.

4. These Guidelines have been developed taking into account the growing significance for organizations to ensure disaster recovery planning, risk identification, risk analysis and development of recovery strategies. — Background to Guidelines

5. The objective of these Guidelines is to enable regulated persons analyse the potential and real disasters they may face and to make provision for the development of continuity plans — Objectives of the Guidelines

6. In these Guidelines, the following words and expressions shall carry the meaning attributed to them: This glossary is only designed to provide clarity to the words and terms used in these Guidelines and does not amount to an interpretation of the terms contained therein. — Meaning of terms

"Authority" means the Capital Markets Authority as established under section 4 of the Capital Markets Authority Act Cap 84.

'Back up" means the act of reproducing copies of

printed records or electronic records.

"Correspondent" means a natural person or institution with which a regulated institution exchanges vital information such as the Authority, clients or other category of persons or institutions generally.

"Disaster" this includes acts of God or natural disasters such as earthquakes and fires as well as acts of men such as riots, terrorist attacks, computer systems failures and arson.

"Electronic records" are vital computer files, e-mail attachments or other information ordinarily stored in electronic, magnetic or digital form.

"Primary" this refers to the original documentary or electronic records.

"Regulated person" means any organisation or natural person that is licensed, approved or in any way regulated by the Authority and includes Uganda Securities Exchange, broker/dealers, investment advisers, registrars, custodians, managers, trustees and authorised corporate directors of collective investment schemes and any other category of persons or institutions as the Authority may from time to time designate.

"Secondary" this refers to copies of primary or original documentary or electronic records.

PART II – RISK ASSESSMENT ANALYSIS

7. All regulated persons are required to carry out a risk analysis of their securities operations which will enable them examine the real, and historical risks and potential threats such as natural disasters, technological or human causes.

Mandatory requirement to carry out risk analysis

8. A risk analysis should include risk identification, risk categorization, identification of the likelihood of occurrence and an assessment of the adequacy of the precautions in place.

Elements of a risk analysis

9. The findings of the risk analysis should be recorded and applied in the development of a risk management and contingency plan.

Record and application of risk analysis findings

10. Risks should be prioritised according to risks resulting from equipment failure, utilities failure and human failures resulting from robberies, strikes, riots, and terrorist threats among others.

Prioritisation of risks

11. An assessment of the potential impact resulting from the risk should also be made with special focus on its bearing on:-

Focus of impact assessment

(i) The financial effects on the regulated entity.
(ii) Legal and regulatory consequences.
(iii) Effects on competitive position and Customer confidence

PART III – MANAGEMENT OF RECORDS

12. (1) Printed records refer to all vital printed documentation including correspondence, board minutes, financial records, client records, operational information, standard formats, contracts, licensing documentation as well as other important records that are generated from within the regulated institutions and from correspondents.

Management of primary printed and electronic records

(2) Primary copies of all printed records must be kept in a systematic and well-categorised manner.

(3) All primary copies of printed records should be stored in fireproof cabinets.

13. (1) Secondary copies of all printed records should be made by photocopying or scanning and these should be updated on a quarterly basis.

Management of secondary printed and electronic records

(2) All secondary copies of printed records should be stored at an off-site storage location satisfying the guidelines in 12 (2).

14. (1) All employees of regulated institutions responsible for using or storing electronic records are required to make back up copies (the first backup) of all primary

Management of electronic records

electronic records and store them preferably on floppy diskette or other magnetic or digital form. Other forms may include tape, CD, jazz or SyQuest disks.

(2) All first back up copies must be backed up on similar or other electronic, digital or magnetic storage devices (the second backup).

(3) First and second back up copies should be updated on a quarterly basis.

The secondary back up copies must be stored at an off-site location satisfying the guidelines in 13(2).

PART IV- DISASTER MANAGEMENT COMMITTEE

15. All Regulated persons should put in place disaster management committees.

Mandatory establishment of disaster management committees

16. The committee shall, among others, develop a contingency plan for business continuity, which should specifically address –

Key functions of the committee

(i) Evacuation procedures
(ii) Business resumption
(iii) Emergency operating procedures.
(iv) Information systems and data recovery

17. The Chairperson of the committee shall be in charge of implementation of the business continuity plan and the Compliance Officer designated for purposes of liaison with the Authority shall be a member of the Committee.

Special categories in the committee

18. A regulated person shall immediately notify the Authority in the event of the following –

Notification events

a) A decision to change an off-site storage location.
b) The change of an off-site storage location.
c) The occurrence of any disaster affecting the regulated person's business.
d) A decision to implement the contingency business continuity plan.
e) A change of location of operations following disaster.

PART V – OFF-SITE LOCATIONS

19. Each regulated institution is required to arrange for the off-site storage of its backup copies as provided above.

Mandatory requirement for the establishment of an off-site storage location

20. (1) In general, off-site storage locations should not be less than 1 km from the principal place of business of the regulated institutions, but they may be a branch office of the regulated institution or parent company premises.

General criteria for offsite locations

(2) The off-site storage location shall be a convenient and secure location.

PART V – GENERAL

21. (1) The Authority shall conduct routine and impromptu visits to the premises of regulated institutions and to back-up storage locations to verify compliance with these Guidelines.

Authority's powers

(2) The Authority reserves the right to make directions on the suitability of selected off-site storage locations.

(3) The Authority may make such directions, as it may deem necessary with respect to the disaster recovery preparedness of regulated institutions.

22. All regulated institutions shall implement these guidelines by the 1st of January 2006, save for regulation 12(3) which shall be implemented by the 1st of May 2006.

Implementation of these Guidelines

Issued this 20th day of October, 2005.

TWAHA KIGONGO KAAWAASE
Chairman, Capital Markets Authority