

**STATUTORY INSTRUMENTS**  
**2015 NO.....**

**The Collective Investment Schemes (Recognition of Foreign Schemes) (No.1) Order, 2015**  
(Under section 24 of the Collective Investment Schemes Act No. 4 of 2003)

**1. Title**

This Order may be cited as the Collective Investment Schemes (Recognition of Foreign Schemes) Order, 2015.

**2. Interpretation**

“Act” means the Collective Investment Schemes Act

“Authority” means the Capital Markets Authority

“Home Authority ” means the Authority which is the primary regulator of the scheme.

“unit trust scheme” means a collective investment scheme under which the property is held in trust for the participants;

“recognized scheme” means a scheme recognised under Part VI of the Act

“operator” in relation to a unit trust scheme, means the manager;

“depository” in relation to a unit trust scheme means the person with whom the property of the collective investment scheme is entrusted for safe keeping

**3. Designation of country**

(1) A country specified in Column 1 of the table in Schedule 1 shall be declared as a designated country for the purposes of section 24(1) (a) of the Act.

(2) An investment scheme registered or approved in a country designated under subparagraph (1) shall be recognised as a foreign investment scheme under the Act.

**4. Class of recognized schemes**

A class of scheme specified in column 2 of the table in Schedule 1, shall be a recognised foreign scheme for purposes of section 24(1) (b) of the Act.

**5. Notice by operator**

The operator of a unit trust scheme recognized under clause 4 shall give notice to the Authority in writing of its intention to be recognised by the Authority as prescribed by Form 1 in Schedule 2.

## **6. Additional information**

(1) An operator shall provide additional information as the Authority may require.

(2) The additional information shall include information as required in the application form for recognition as prescribed in Form 1 in Schedule 2 and shall be accompanied by a prescribed fee.

## **7. Processing of notification by Authority**

The Authority shall consider a notice for recognition and accompanying additional information prescribed in Schedule 2 and inform the operator of its decision within 45 days after the notice has been lodged with it, except that where further information has been required in accordance with clause 6 above, the period of 45 days shall be calculated from the time that the required information is submitted to the Authority.

(2) Where the Authority proposes to refuse an application for notification of recognition, it shall give the operator written notice of its intention to do so, stating the reasons for which it proposes to refuse the application and giving particulars of the rights conferred sub clause (3).

(3) An operator on whom notice is served under sub clause (2) may, within 21 days after receipt of service, make written representations to the Authority and, if desired, oral representations to a person appointed for that purpose by the Authority.

## **8. Recognition certificate**

(1) The Authority may on receipt of written notification and additional information grant and issue a recognition certificate to an operator with such conditions as it deems fit.

(2) The recognition certificate will be valid for a period of one year and shall be renewed in accordance with paragraph 12 .

## **9. Misplacement of recognition certificate**

Where the Authority is satisfied that a recognition certificate has been inadvertently lost, destroyed or defaced, the Authority shall replace it on payment by the operator of a fee to be prescribed by the Authority.

## **10. Display of recognition certificate**

(1) Every operator shall display the recognition certificate at all premises in which he or she transacts the business authorized by the recognition certificate.

(2) The requirement in sub clause (1) shall not be taken to be satisfied unless the certificate is displayed in such a manner as to be readily visible to the public.

## **11. Notification to Authority**

An operator of a recognized scheme shall communicate to the Authority notice of—

(i) any change in the principal place of business, and;

(ii) cessation of business,.

## **12. Application for renewal of recognition**

(1) An application for renewal of recognition certificate shall be made to the Authority not later than thirty days before the expiration of the license in Form 2 of the Second Schedule.

(2) The Authority shall consider an application and inform the applicant of its decision within thirty days after the application has been lodged with it; except that where further information has been required in accordance with clause 6, the period of thirty days shall be calculated from the time that the required information is submitted to the Authority.

(3) If no decision is made by the Authority within the period stated in sub regulation (2), the Authority shall immediately notify the applicant, in writing, of the reasons for the delay.

(4) The provisions of clause 7 apply where the Authority proposes to refuse an application for renewal of recognition.

## **13. Revocation of recognition certificate**

(1) A recognition certificate may be revoked in accordance with section 53 of the Act if it appears to the Authority that;

- (a) The scheme no longer meets the requirements for recognition,
- (b) The license of the recognized scheme has been revoked, withdrawn or suspended by the Home Authority.
- (c) It is undesirable in the interests of the scheme participants that the scheme should continue to be recognized.
- (d) The manager, trustee or depositary has contravened any provisions of the Act or has furnished the Authority with false, inaccurate or misleading information.

(2) Where the Authority proposes to revoke a recognition certificate, it shall give the operator written notice of its intention to do so, stating the reasons for which it proposes to revoke a recognition certificate and giving particulars of the rights conferred by clause 7 sub clause (3).

(3) An operator on whom notice is served under sub clause (2) may, within 21 days after receipt of service, make written representations to the Authority and, if desired, oral representations to a person appointed for that purpose by the Authority.

(4) The Authority shall have regard to any representations made in accordance with sub clause (3) in determining whether to refuse the application

**SCHEDULE 1**

*Section 24 (a) and (b) Collective investment Schemes Act*

**DESIGNATED COUNTRIES**

<b>Country</b>	<b>Class(es) of recognized schemes</b>
1. Republic of Kenya	a) Unit trust schemes

**SCHEDULE 2**

*Section 24 (5) Collective investment Schemes Act*

**NOTICE TO THE AUTHORITY FOR RECOGNITION OF A FOREIGN SCHEME**

Documents to be submitted in support of written notice for recognition of a foreign scheme.

1. Form 1 completed and signed by two directors of the scheme operator.
2. Prescribed application fee

**FORM 1**

**APPLICATION FOR RECOGNITION OF A FOREIGN SCHEME**

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**Notes:**

If space is insufficient to provide details, please attach annexure(s).

Any annexure should be identified as such and signed by the signatory to this application.

This application must be accompanied by -

- 1) Certificate of Registration
- 2) Trust deed and Rules
- 3) Information memorandum/prospectus
- 4) Investment Policy Statement
- 5) License from CMA (Kenya)
- 6) Annual Report and Financial Statements
- 7) Letter of no objection from CMA Kenya

**PART 1 - COMPANIES**

*(To be completed only by Applicants which are companies)*

4. (a) Name of the scheme :  
.....
- (b) Registered Office:  
.....
- (c) Date of establishment and legal form of scheme ( e.g. unit trust):

.....  
(d) Address, telephone and fax numbers of principal place at which the business of the Applicant is to be carried on:  
.....  
.....

(e) Details of fund manager/operator

<b>Name</b>	<b>Address</b>	<b>Legal form</b>

(f) Details of Trustee

<b>Name</b>	<b>Address</b>	<b>Legal form</b>

(g) Details of other parties to the CIS ( custodian, investment advisors,auditors,legal advisors

Name	Address	Legal form

5. State whether the scheme is licensed or authorized in any jurisdiction ( provide license):

.....

6. State whether the scheme is listed on a Stock exchange ( if so give details)

**PART III**

7. a) State the type of clients with whom the Applicant proposes to do business:

.....

b) Describe in detail the experience of the Applicant and his management staff in the business:

.....

c) State in detail the activity and the manner in which the Applicant proposes to conduct the business for which the Applicant requires recognition.

.....

8 . Is the Applicant or any Director or Secretary of the Applicant company a Director of any Company in Uganda or elsewhere?

Answer "Yes" or "No".

.....

If "Yes" give details of:

a) names of the Companies:

.....

b) places of incorporation and;

c) dates of appointment:

.....

*For question 11 answer "Yes" or "No" in the space provided. If "Yes" attach annexure giving relevant particulars.*

10. Has the Applicant or any Director or Secretary of the Applicant Company (fund manager) within the past 10 years:

a) been licensed or registered in any place under any law which requires licensing or registration in relation to dealing in securities ?

.....

b) been licensed, registered or otherwise authorised by law to carry on any trade, business or profession in any place?

.....



- c) been refused the right or restricted in its or his right to carry on any trade, business or profession for which a specific licence, registration or other authority is required by law in any place?  
 .....
- d) been known by any name other than the name or names shown in this application?  
 .....
- e) had judgement including findings in relation to fraud , misrepresentation or dishonesty been given against him in any civil proceedings , in Uganda or elsewhere? *(If “Yes” using an annexure, give full details, including whether judgement was unsatisfied)*  
 .....
- f) been declared bankrupt or compounded with or made an arrangement for the benefit of his creditor, in Uganda or elsewhere?  
 .....
- g) been engaged in the management of any Company other than those referred to in answer to question 11?  
 .....

12. Set out below, details of the Applicant’s or of each Director and Secretary of the Applicant Company’s employment and business activities, during the previous 10 years.

Name of individual Applicant or Director or Secretary of Applicant Company	Name and Address of Employer (if self employed, so state)	Nature of business or activity	Description of duties in relation to the employment	Period of employment or activity (give exact dates)


13. Set out additional; information (including any formal qualifications or training and the name of the institution that conducted the course) considered relevant to this application.

.....  
.....  
.....  
.....

14. Set out below details of two persons (who are not related to the Applicant, and neither of whom shall have any interest in the success or otherwise of this application) with whom the Applicant or each Director or Secretary of the Applicant company has had regular contact over the past five years and of whom the Authority may require regarding the Applicant’s character and reputation.

Name	Address	Occupation

15. I am aware of the provisions of section 38 of the CMA Act relating to false statements made in applications.

17. I declare that all information given in this application and in the attached annexures (if any) is true and correct.

Date: .....

( Signature: .....

**(Name of Applicant/ Director/ Secretary)**

**THIRD SCHEDULE**

**APPLICATION FOR RENEWAL OF RECOGNITION CERTIFICATE**

**Clause 11**

**THE CAPITAL MARKETS AUTHORITY.**

**APPLICATION FOR RENEWAL OF RECOGNITION CERTIFICATE**

Application is made for the renewal of—

Recognition certificate and the following statements are made in respect of the applicant—

1. (a) Applicant's name: .....

(b) Certificate No: .....

(c) Expiry date of certificate: .....

2. Where the applicant is a company, please complete the following— (*Answer "Yes" or "No" in space provided. If "Yes" attach annexures giving all relevant particulars.*)

(a) Since the last application—

(i) Has there been a change in the shareholders of the applicant?.....

(ii) Has there been a change in the Trustee, custodian of the scheme?.....

(ii) Has there been a change in the applicant's directors, secretary, senior management personnel or external auditor?.....

(iii) Has the applicant or any of its directors or its secretary been suspended from membership of any securities exchange or otherwise disciplined by a securities exchange? .....

(iv) Has any of the applicant's directors been a director of any company other than those referred to in the last application? .....

(v) Has the applicant taken any disciplinary action against any of its representatives? .....

(vi) Has the applicant received any complaint against any of its representatives? .....

(vii) Has the applicant undertaken to conduct any material new business activity? If so, state the nature of the activity.....

(b) Please furnish details of any other event which has occurred which is likely to have a significant effect on the applicant's business during the currency of the order if granted (including any legal claim against the applicant.)

*3.(Answer "Yes" or "No" in space provided. If "Yes" attach annexures giving all relevant particulars.)*

Since the last application, have the staff of the applicant ( fund manager) , Trustee or custodian  
—

(a) been convicted of any offence other than a traffic offence in Uganda or elsewhere or are there any proceedings now pending which may lead to such a conviction? .....

(b) had judgment including findings in relation to fraud, misrepresentation or dishonesty

been given against him in any civil proceedings, in Uganda or elsewhere? (If "Yes": using an annexure, give full details, including whether judgment is unsatisfied.) .....

(d) been declared bankrupt or compounded with or made an arrangement for the benefit of his creditors in Uganda or elsewhere? .....

(e) been engaged in the management of any company other than those referred to in the last application? .....

(f) been refused a fidelity or surety bond in Uganda or elsewhere? .....

(g) undertaken to conduct any material new business activity? If so, state the nature of the activity. ....

(h) been disciplined by any professional body or other membership body? .....

4. I am/We are<sup>1</sup> aware of the provisions of section 38 of the CMA Act relating to false statements in applications.

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<sup>1</sup> Delete whichever is inapplicable.

5. I/We\* declare that all information given in this application and in the attached annexures (if any) is true and correct.

Date:.....

<sup>2</sup> Signature.....

*(Name of Applicant/Director/Secretary\*)*

Grace Jethro Kavuma  
**Chairperson, Capital Markets Authority**

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<sup>2</sup> Where the applicant is a company, this application is to be signed by a Director or Secretary of the company.