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# Uganda Gazette



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General Notice No. 576 of 2007.

THE ADVOCATES ACT.  
NOTICE.

## APPLICATION FOR A CERTIFICATE OF ELIGIBILITY.

IT IS HEREBY NOTIFIED that an application has been presented to the Law Council by Owor Aroba John Martin who is stated to be a holder of Bachelor of Laws Degree of Makerere University having been awarded a Degree on the 27th day of October, 2005 and to have been awarded a Diploma in Legal Practice by the Law Development Centre on the 27th day of July, 2007 for the issue of a Certificate of Eligibility for entry of his name on the Roll of Advocates for Uganda.

Kampala, HELLEN OBURA,  
31st August, 2007. *Acting Secretary, Law Council.*

General Notice No. 577 of 2007.

THE ADVOCATES ACT.  
NOTICE.

## APPLICATION FOR A CERTIFICATE OF ELIGIBILITY.

IT IS HEREBY NOTIFIED that an application has been presented to the Law Council by Nakigozi Harriet Mildred who is stated to be a holder of Bachelor of Laws Degree of Makerere University having been awarded a Degree on the 27th day of October, 2005 and to have been awarded a Diploma in Legal Practice by the Law Development Centre on the 27th day of July, 2007 for the issue of a Certificate of Eligibility for entry of her name on the Roll of Advocates for Uganda.

Kampala, HELLEN OBURA,  
7th August, 2007. *Acting Secretary, Law Council.*

General Notice No. 578 of 2007.

THE ADVOCATES ACT.  
NOTICE.

## APPLICATION FOR A CERTIFICATE OF ELIGIBILITY.

IT IS HEREBY NOTIFIED that an application has been presented to the Law Council by Ssebyuma Peter who is stated to be a holder of Bachelor of Laws Degree of Makerere University having been awarded a Degree on the 21st day of November, 2003 and to have been awarded a Diploma in Legal Practice by the Law Development Centre on the 16th day of June, 2006 for the issue of a Certificate of Eligibility for entry of his name on the Roll of Advocates for Uganda.

Kampala, HELLEN OBURA,  
7th September, 2007. *Acting Secretary, Law Council.*

General Notice No. 579 of 2007.

THE ADVOCATES ACT.  
NOTICE.

## APPLICATION FOR A CERTIFICATE OF ELIGIBILITY.

IT IS HEREBY NOTIFIED that an application has been presented to the Law Council by Nsamba Abbas Matovu who is stated to be a holder of Bachelor of Laws Degree of Makerere University having been awarded a Degree on the 22nd day of October, 2004 and to have been awarded a Diploma in Legal Practice by the Law Development Centre on the 27th day of July, 2007 for the issue of a Certificate of Eligibility for entry of his name on the Roll of Advocates for Uganda.

Kampala, HELLEN OBURA,  
5th September, 2007. *Acting Secretary, Law Council.*

General Notice No. 580 of 2007.

THE ADVOCATES ACT.  
NOTICE.

## APPLICATION FOR A CERTIFICATE OF ELIGIBILITY.

IT IS HEREBY NOTIFIED that an application has been presented to the Law Council by Rwaboona Michael Muhimbura who is stated to be a holder of Bachelor of Laws Degree of Makerere University having been awarded a Degree on the 27th day of October, 2005 and to have been awarded a Diploma in Legal Practice by the Law Development Centre on the 27th day of July, 2007 for the issue of a Certificate of Eligibility for entry of his name on the Roll of Advocates for Uganda.

Kampala, HELLEN OBURA,  
24th August, 2007. *Acting Secretary, Law Council.*

**N.B. This Notice degazettes General Notice No. 548 of 2007 published in *The Uganda Gazette* No. 46 of 31st August, 2007.**

*Editor, The Uganda Gazette.*

General Notice No. 581 of 2007.

THE COMPANIES ACT, LAWS OF UGANDA, 2000.  
(Cap. 110).  
NOTICE.

PURSUANT to section 19(4) of the Companies Act, notice is hereby given that KLR Agro (U) Limited has by special Resolution passed on the 10th day of September, 2007 and with the approval of the Registrar of Companies changed in name to KLR Uganda Limited and that such new name has been entered in my Register.

DATED at Kampala this 10th day of September, 2007.

MERCY KYOMUGASHO K. NDYAHIKAYO,  
*Assistant Registrar of Companies.*

## ADVERTISEMENTS

### THE REGISTRATION OF TITLES ACT.

(Cap. 230).

#### NOTICE.

#### ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Singo Block 88 Plot 14, 91.0 Hectares at Kyewanise Estate.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Erimiya Wamala, a special Certificate of Title under the above Block and Plot of the Mailo Register, the duplicate Certificate of Title which was originally issued having been lost.

Mityana, JANET NABUUMA,  
29th August 2007. *for Ag. Commissioner Land Registration.*

### THE REGISTRATION OF TITLES ACT.

(Cap. 230).

#### NOTICE.

#### ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Busuju Block 25 Plot 22, 2.45 Hectares at Mawundwe Estate.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Yosiya Kiwanuka of Mawundwe, a special Certificate of Title under the above Block and Plot of the Mailo Register, the duplicate Certificate of Title which was originally issued having been lost.

Mityana, JANET NABUUMA,  
7th August 2007. *for Ag. Commissioner Land Registration.*

### THE REGISTRATION OF TITLES ACT.

(Cap. 230).

#### NOTICE.

#### ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Buwekula Block 237 Plot 2, 178.20 Hectares at Lukunyu Estate.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Wasswa Esau of P.O. Box 105 Mubende, a special Certificate of Title under the above Block and Plot of the Mailo Register, the duplicate Certificate of Title which was originally issued having been lost.

Mityana, JANET NABUUMA,  
15th August 2007. *for Ag. Commissioner Land Registration.*

### THE REGISTRATION OF TITLES ACT.

(Cap. 230).

#### NOTICE.

#### ISSUE OF SPECIAL CERTIFICATES OF TITLES.

Singo Block 172 Plot 2, 4.85 Hectares at Bulamu Estate.

Singo Block 172 Plot 8, 0.95 Hectares at Bulamu Estate.

Singo Block 172 Plot 9, 6.90 Hectares at Bulamu Estate.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Samwiri Mukasa of Bulamu, special Certificates of Titles under the above Block and Plots of the Mailo Register, the duplicate Certificates of Titles which were originally issued having been lost.

Mityana, JANET NABUUMA,  
15th August 2007. *for Ag. Commissioner Land Registration.*

### THE REGISTRATION OF TITLES ACT.

(Cap. 230).

#### NOTICE.

#### ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Kyaggwe Block 97 Plot 406, Area 0.03 at Mpoma.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Debula Njogera of Kisowera Kauga Kyaggwe, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Mukono, CHRISTINE NAMIREMBE KATENDE,  
3rd May, 2007. *for Ag. Commissioner Land Registration.*

### THE REGISTRATION OF TITLES ACT.

(Cap. 230).

#### NOTICE.

#### ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Kibuga Block 18 Plot 242.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Amina Kuvumira, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Kampala, NAMUTEBI VERONICA,  
14th August, 2007. *for Ag. Commissioner Land Registration.*

### DEED POLL

Know ye all men that by this Deed Poll, I the undersigned Abdallah Sudi Bamulesewa of P.O. Box 743, Jinja a natural born citizen of Uganda hereby entirely and absolutely renounce, relinquish and abandon the use of my former names Sudi Abdallah which name is used in my school and first degree qualifications, records and deeds and in lieu thereof do assume, adopt and shall use the name Abdallah Sudi Bamulesewa which name I have used since 1996 and appears in my records, certificates, deeds and instruments obtained and made since then.

In pursuance of such change of name as aforesaid, I hereby declare that I shall at all times hereafter in all records, deeds and instruments in writing and in all actions, proceedings and in all dealings and transactions and upon all occasions whatsoever use and sign the said name of Abdallah Sudi Bamulesewa in lieu of my former name Abdallah Sudi renounced as aforesaid.

I expressly authorise and request all persons at all times hereafter to designate and address me by my assumed name of Abdallah Sudi Bamulesewa.

Declared and delivered at Kampala by the above named Abdallah Sudi Bamulesewa formerly Abdallah Sudi this 10th day of September, 2007.

ABDALLAH SUDI BAMULESEWA,  
*Renouncer.*

### THE BIRTHS AND DEATHS REGISTRATION ACT. CAP. 309

#### NOTICE OF CHANGE OF NAME

#### DEED POLL

By this Deed, I, Ntale Hindu of C/o P.O. Box 36409, Kampala, do hereby declare that I have absolutely renounced and abandoned, the use of my said name(s) Ntale Hindu, in whole or part in the order not herein not declared and changed into, and in lieu thereof I have assumed and adopted as from the date hereof the name of Joy Ntale Willis.

And in pursuance of such change of name as aforesaid, I hereby declare that I shall at all times hereafter in all actions and proceedings and all dealings and transactions and upon all occasions whatsoever use and sign the said name of Joy Ntale Willis as my name in lieu of the said name(s) of Ntale Hindu so renounced as aforesaid.

And I hereby authorise and request all persons to designate and address me by such assumed name of Joy Ntale Willis and I shall for all intents and purposes be called and designated Joy Ntale Willis as my full names.

In witness whereof I have hereunder signed my assumed name of Joy Ntale Willis and relinquished name(s) of Ntale Hindu in whole or part in the order not herein not declared and changed into.

Declared at Kampala this 29th day of August, 2007.

Signed, sealed and delivered by the said Joy Ntale Willis.

JOY NTALE WILLIS,  
*Declarant.*

**STATUTORY INSTRUMENTS SUPPLEMENT**  
*to The Uganda Gazette No. 49 Volume C dated 10th September, 2007*  
Printed by UPPC, Entebbe, by Order of the Government.

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**S T A T U T O R Y   I N S T R U M E N T S**

**2007 No. 41.**

**The Stamps (Exemption from Stamp Duty) (Instruments Executed  
by AYA Investments (U) Limited) Instrument, 2007.**

*(Under section 10 of the Stamps Act, Cap. 342).*

IN EXERCISE of the powers conferred on the Minister responsible for finance by section 10 of the Stamps Act, this Instrument is made this 10th day of September, 2007.

**1. Title.**

This Instrument may be cited as the Stamps (Exemption from Stamp Duty) (Instruments Executed by AYA Investments (U) Limited) Instrument, 2007.

**2. Exemption from stamp duty.**

The stamp duty chargeable under section 2 of the Stamps Act and payable by AYA Investments (U) Ltd in respect of the instruments specified in the Schedule, is exempted.

**SCHEDULE.**

1. Debenture on all the moveable property, and the undertaking of the Borrower whatsoever and wheresoever, both present and future, including its uncalled capital, as security for a loan of USD 41,500,000.00 from the Industrial Development Corporation of South Africa Limited.
2. Mortgage on registration of Vol. 3556, Folio 8, Plot 7A, 9A, 10, M32, M182 and 2E Lugard Road in favour of the Industrial Corporation of South Africa Ltd.

**DR. E. SURUMA,**  
*Minister of Finance, Planning and Economic Development.*

**S T A T U T O R Y   I N S T R U M E N T S**

**2007 No. 42.**

**The Traffic and Road Safety (Speed of Motor Vehicle) (Exemption)**  
**(No. 4) Order, 2007.**

*(Under section 175 of the Traffic and Road Safety Act, Cap 361).*

IN EXERCISE of the powers conferred upon the Minister responsible for works and transport by section 175 of the Traffic and Road Safety Act, Cap. 361, this Order is made this 10th day of September, 2007.

**1. Title**

This Order may be cited as the Traffic and Road Safety (Speed of Motor Vehicle) (Exemption) (No. 4) Order, 2007.

**2. Exemption**

A person who drives a motor vehicle and who competes in the United Motor Sports Club (UMOSPOC) Challenge Rally, organised by the Federation of Motor Sports Club of Uganda, commencing on the 14th September, 2007 and ending on the 16th September, 2007 is exempted from the provisions of section 120 of the Traffic and Road Safety Act, for the duration of that rally.

**JOHN M. NASASIRA,**  
*Minister of Works and Transport.*

**STATUTORY INSTRUMENTS SUPPLEMENT**  
*to The Uganda Gazette No. 49 Volume C dated 10th September, 2007*  
Printed by UPPC, Entebbe, by Order of the Government.

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**S T A T U T O R Y   I N S T R U M E N T S**

**2007 No. 43.**

**THE COLLECTIVE INVESTMENT SCHEMES (CONDUCT OF BUSINESS  
AND MISCELLANEOUS PROVISIONS) REGULATIONS, 2007.**

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# STATUTORY INSTRUMENTS

2007 No. 43.

## **The Collective Investment Schemes (Conduct of Business and Miscellaneous Provisions) Regulations, 2007.**

*(Under sections 30, 31 and 84 of the Collective Investment Schemes Act 2003, Act No. 4 of 2003)*

IN EXERCISE of the powers conferred on the Capital Markets Authority by sections 30, 31 and 84 of the Collective Investment Schemes Act, 2003, these Regulations are made this 29th day of April, 2005.

### PART I—PRELIMINARY

#### **1. Title.**

These Regulations may be cited as the Collective Investment Schemes (Conduct of Business and Miscellaneous Provisions) Regulations, 2007.

#### **2. Interpretation.**

(1) In these Regulations, unless the context otherwise requires—

“accounting reference date” means the date to which a licensed person’s accounts are prepared in order to comply with the Companies Act or, in the case of a licensed person not subject to the Companies Act, the equivalent date selected by the licensed person;

“Act” means the Collective Investment Schemes Act, 2003;

“advertisement” includes every form of advertising, whether in a publication, by the display of notices, signs, labels or show cards, by means of circulars, catalogues, price lists or other documents, by an exhibition of pictures or photographic or cinematographic films, by way of sound broadcasting or television, by the distribution of recordings by electronic display or distribution, or in any other manner;

**Explanation:** *See also the following defined terms: CIS investment advertisement, CIS direct offer advertisement, specific CIS advertisement and CIS investment services advertisement.*

“advertiser” means any person by whom an advertisement is issued or caused to be issued, whether or not that person takes direct responsibility for the contents, timing or medium of the advertisement.

“advertising regulations” means regulations 6, 7 and 10;

“ancillary” in relation to an investment, means any right to an interest in that investment which is apportioned to that investment;

“annual accounts” means accounts prepared to comply with the Companies Act or other statutory obligations;

“applicant” means a person who has applied, or is in the course of applying, to the Authority to be a licensed person;

“appointed representative” means a person—

(a) who is employed by a licensed person (his or her “principal”) under a contract for services which requires or permits him or her to carry on investment business; and

(b) for whose activities in carrying on the whole or part of that investment business his or her principal has accepted responsibility in writing;

“approved bank” means an institution which is authorised as a bank under the Financial Institutions Act;

“associate” means—

(a) an undertaking in the same group as that person; and

(b) an appointed representative of the first person or of any undertaking in the same group; and

(c) any other person whose business or domestic relationship with the first person or its associate might reasonably be expected to give rise to a community of interest between them which may involve a conflict of interest in dealings with third parties;

“associated business” means business which is carried on in connection with CIS investment business;

“Authority” means the Capital Markets Authority established by the Capital Markets Authority Act;

“Authorised Corporate Director” or “ACD” has the meaning given under section 2 of the Act;

“best execution” in relation to the effecting of a transaction means the effecting of that transaction in compliance with regulation 16;

“body corporate” includes a body corporate constituted under the law of a country or territory outside Uganda;

“Chief Executive” includes any person occupying the position of chief executive or managing director (whether solely or jointly), by whatever name called;

“Chinese Wall” means an arrangement within the organisation of a licensed person or between a licensed person and any associate of that licensed person, which requires information obtained by the licensed person or, as the case may be, associate, in the course of carrying on one part of its business of any kind to be withheld in certain circumstances from persons with whom it deals in the course of carrying on another part of its business of any kind;

“CIS advertisement” means any advertisement inviting anyone to enter or offer to enter into a Collective Investment Scheme Agreement or to exercise any rights conferred by a Collective Investment Scheme Agreement to acquire, dispose of or convert units or shares in a Collective Investment Scheme or containing information calculated to lead directly or indirectly to anyone doing so;

“CIS advertising code” means the advertising code issued by the Authority under section 34 of the Act and set out in Schedule 2;

“CIS customer” means—

(a) any person to whom the licensed person provides or has provided CIS investment services; or

(b) a customer of an appointed representative of a licensed person with or for whom the representative acts in the course of CIS investment business for which the licensed person has accepted responsibility;

and includes an indirect customer and a potential customer but does not include—

(i) a market counterparty;

(ii) a trust beneficiary other than a holder of a unit in a unit trust;

“CIS customer agreement” means an agreement to the formation documents of a licensed scheme signified by the acquisition of units or shares in a licensed scheme;

“CIS customer money” means any amount of money received before a dealing day by an operator for the purchase of a share or unit in a collective investment scheme or any amount of money held by an operator as a result of a redemption of a share or unit in a collective investment scheme beyond the prescribed period for redemption;

“CIS customer money regulations” means regulation 32 to 34 and regulations 63 to 68;

“CIS customer title document” in relation to a CIS, means a document of title or certificate evidencing a CIS customer’s title to units or shares in a CIS and may also be construed to include an electronically maintained record where the CIS customer has the right to obtain a paper copy of the entry referring to his or her holding;

“CIS customer order” means an order for a purchase or sale or conversion of units or shares of a collective investment scheme;

“CIS direct offer advertisement” means a specific CIS investment advertisement (including a pre-printed or off-the-screen advertisement) which—

(a) contains—

(i) an offer by the licensed person or another offeror to enter into a CIS agreement with anyone who responds to the advertisement; or

(ii) an invitation to anyone to respond to the advertisement by making an offer to the licensed person or another offeree to enter into a CIS agreement; and

(b) specifies the manner or indicates a form in which any response is to be made (for example by providing a tear-off slip);

“CIS investment business” means the business of engaging in one or more of the activities comprised in the establishment or operation of a Collective Investment Scheme;

“CIS investment services” means activities undertaken in the course of carrying on CIS investment business;

“CIS investment services advertisement” means any advertisement promoting the business of a licensed person under the Act;

“CIS order” means an order to acquire or dispose of investments on behalf of a collective investment scheme;

“CIS published recommendation” means any journal, tipsheet, broker’s circular or other publication (including publication by sound broadcasting or television) which contains the results of research into, or analysis of factors likely to influence the future performance of CIS investments, or advice or recommendations based on such results, and which

is issued by or on behalf of a licensed person to the public or selected sections of the public, including members of the public who are CIS customers or potential CIS customers of the licensed person responsible. A communication of which the main body or import is common to a number of such communications may be a published recommendation notwithstanding that the introduction or presentation of each such communication is so worded or arranged as to appear to make it a personal communication;

“clearance event” means any of the events referred to as a clearance event in regulation 110;

“close relative” in relation to an individual, means that individual’s spouse, brother, step-brother, sister, step-sister, parent, step-parent, child (natural or adopted) or step-child but excluding any such relative over whom the individual can show on reasonable grounds that he or she has no significant influence;

“collective investment scheme” has the meaning given in section 3 of the Act;

“company representative” in relation to a licensed person or an appointed representative of a licensed person (whether the licensed person or the appointed representative is a company or not), means an individual who is—

(a) the appointed representative himself or herself if the appointed representative is a sole trader; or

(b) an employee, partner or officer of the licensed person or of the appointed representative, as the case may be,

and whose activities include procuring or endeavouring to procure persons to enter into CIS agreements, or giving advice to the persons with whom he or she deals about entering into CIS agreements or exercising rights conferred by CIS shares or units;

“complainant” means a holder of units or shares in any Collective Investment Scheme of which a licensed person is or was at the time of the complaint, the operator or trustee or depositary;

“complaint” means an expression of dissatisfaction made by or with the authority of a complainant to a licensed person or any appointed representative of the licensed person concerning one or more collective investment schemes not being a complaint solely related to the performance of the investment which is the subject of the collective investment scheme;

“compliance officer” means the individual from time to time appointed by a licensed person as responsible for compliance matters;

“compliance procedures” means the compliance arrangements and procedures required to be established and maintained by each licensed person in accordance with Part IV;

“connected person” in relation to a person, means for the purposes of regulations 94 to 99, anyone connected with him or her by reason of domestic or business relationship (other than as arises solely because that person is a customer of the licensed person) such that the officer or employee has influence over that person’s judgment as to how to invest his or her property or exercise any rights attaching to his or her Investments;

“controller” means—

- (a) in relation to a body corporate, a person, who, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, 15 per cent or more of the voting power at a general meeting of the body corporate or another body corporate of which it is a subsidiary; and

(b) in relation to an unincorporated body—

(i) any person in accordance with whose directions or instructions, either alone or with those of any associates, the officers or members of the governing body of the association are accustomed to act (but disregarding advice given in a professional capacity); and

(ii) any person who, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, 15 per cent, or more of the voting power at any general meeting of the association,

and, for the purposes of this definition, “associate“, in relation to any person, means that person’s wife, husband, minor child or step-child, any body corporate of which that person is a director, any person who is an employee or partner of that person and, if that person is a body corporate, any subsidiary of that body corporate and any employee of any such subsidiary;

“controls and systems regulations” means regulations 124 to 127;

“current CIS customer order” includes both a CIS customer order for immediate execution and, once the condition is fulfilled, a CIS customer order which is only to be executed on fulfilment of a condition;

“current CIS order” includes both a CIS order for immediate execution and, once the condition is fulfilled, a CIS order which is only to be executed on fulfilment of a condition;

“currency point” has the meaning given in section 2 of the Act;

“customer bank account” means an account complying with the requirements of regulation 33;

“customer title document” in relation to an investment, means a

document of title, or certificate evidencing a customer's title, to that investment;

“CIS customer transaction” means a transaction executed or to be executed as an agent of a CIS customer;

“dealing day” means the period in each business day (or in each other day when the Manager or ACD is open for business) during which the Manager or ACD keeps his or her premises or any of them open to the public or is otherwise publicly available for business of any kind;

“dealing period” means the period between a valuation point and the next valuation point;

“depository” has the meaning given in section 2 of the Act;

“director” means, in relation to—

(a) a body corporate, a person occupying in relation to it 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; and

(b) a person which is not a body corporate—

(i) in the case of a partnership, a general partner; and

(ii) in the case of an unincorporated association, any member of the governing body or other equivalent persons;

“discretionary customer” means a customer for whom a licensed person exercises, or may exercise discretion in relation to the investment of assets belonging to that customer;

“discretionary transaction” means a transaction to which a licensed person executes or proposes to execute in the exercise of discretion;

“eligible custodian” in relation to a licensed person means—

- (a) an eligible nominee;
- (b) an approved bank;
- (c) a body corporate which maintains its head office outside Uganda and whom the licensed person reasonably believes to be a person—
  - (i) whose business includes the provision of investment custodial services; and
  - (ii) who, in providing those services is subject to regulation and supervision by a regulatory body or agency of government in the country in which that person carries on that business or to independent review (not less frequently than annually) by auditors with qualifications prescribed by law or prescribed by such a body or agency;

“eligible nominee” means—

- (a) an individual chosen by the customer or CIS customer who is not known by the licensed person to be an associate of the licensed person;
- (b) a corporate nominee with no other business; or
- (c) an approved bank.

**Explanation:** *A “corporate nominee” means a nominee which is a company.*

“execution-only customer” means a customer or CIS customer who, in relation to a particular transaction, can reasonably be assumed by the employee of the licensed person who deals with him regarding that transaction not to be relying on the licensed person to advise him or her on, or to exercise any judgment on his or her behalf about, the merits of or the suitability for him or her of that transaction;

“financial business” means business which is, or which is held out as being primarily for the purpose of investment;

“formal guidance” means guidance which is intended to have continuing effect and is issued by the Authority—

(a) generally or to a class of persons; and

(b) in writing or other legible form;

“formation documents” has the meaning given in section 2 of the Act;

“holding company” has the meaning given in section 154 of the Companies Act;

“independent intermediary” means a licensed person which is not in relation to a scheme, the operator of that scheme or its marketing group associate and which provides investment services in respect of packaged products;

“indirect customer” means, where a customer is known to be acting as agent, an identified principal who would be a customer if he or she were dealt with direct;

“inducement” does not include—

(a) disclosable commission; or

(b) goods or services which can reasonably be expected to assist in the provision of CIS investment services to customers and which are provided or to be provided under a soft commission agreement;

“inspection” is an inspection of whatsoever kind carried out by the Authority under regulation 100 or 101;

“inspection team” means any employees of the Authority and any agent or agents appointed by the Authority to assist with a particular inspection;

“intervention” means a requirement or prohibition imposed on a

licensed person under Part IX of the Act;

“investigation” is an investigation under Part XI of the Act;

“investment” means any asset, right or interest held under an investment agreement including, in relation to an investment, where the context permits, an ancillary on that investment;

“investment advertisement” means a CIS advertisement or a CIS investment services advertisement inviting a person to enter or offer to enter into an investment agreement or to exercise any rights conferred by an investment to acquire, dispose of, underwrite or convert an investment or containing information calculated to lead directly or indirectly to anyone doing so;

“investment adviser” has the meaning given in section 2 of the Act;

“investment agreement” means any agreement, the making or performance of which by either party constitutes an activity which is regulated under the Act or the Capital Markets Authority Act;

“investment company with variable capital” has the meaning given in section 19 (2) of the Act;

“investment manager” means a person who, acting only on behalf of a customer, either—

(a) manages an account or portfolio in the exercise of discretion; or

(b) has accepted responsibility on a continuing basis for advising on the composition of the account or portfolio;

“investment transaction” means the purchase or sale of an investment;

“licensed person” means a person (being a body corporate) licensed under section 8 of the Act and includes the trustee and depositary, the unit trust manager, the Authorised Corporate Director and the scheme investment manager;

“licensed open ended investment company” means an open-ended investment company licensed under the Act;

“licensed scheme” means a Collective investment scheme for the time being licensed by the Authority;

“licensed unit trust manager” means the operator of a licensed unit trust scheme for the time being licensed by the Authority under the Act;

“licensed unit trust scheme” means a unit trust scheme for the time being licensed by the Authority under the Act;

“licensing procedures” means the procedures set out in the notice issued by the Authority, together with any other procedures which the Authority resolves, either generally or in relation to any specific case, should apply to the licensing of persons under the Act;

“listed money market institution” means a money market institution for the time being listed by the Authority;

“manager” in relation to a person, means an employee who, under the immediate authority of the governing body of that person, is responsible, either alone or jointly with one or more other persons for the conduct of that person’s business, and in relation to a licensed unit trust scheme, means the manager of the scheme;

“market counterparty” means a person dealing with the licensed person—

- (a) as principal or as agent for an unidentified principal; and
- (b) in the course of investment business of the same description as that in the course of which the licensed person acts;

“marketable investment” means—

- (a) an investment which is traded on or under the rules of a recognised or designated investment exchange; or

- (b) any loan stock, bond or other instrument creating or acknowledging indebtedness issued by a government, local authority or public authority;
- (c) money market instruments that are dealt in on a regulated market and which are liquid and whose value can be determined at any time, including certificates of deposit and commercial paper;

“market maker” in relation to an investment of any description, means a person who (otherwise than in his or her capacity as the operator of a regulated Collective Investment Scheme) holds himself or herself out as able and willing to enter into transactions of sale and purchase of investments of that description at prices determined by him or her generally and continuously, rather than in respect of each particular transaction;

“material interest” in relation to a transaction, does not include—

- (a) disclosable commission on the transaction; or
- (b) goods or services which can reasonably be expected to assist in the provision of CIS investment services to customers and which are provided or to be provided under a soft commission agreement;

“non CIS customer agreement” means any agreement in writing relating to services other than CIS investment business to which a licensed person and a customer of the licensed person are parties;

“non CIS customer” means any person to whom the licensed person provides services other than CIS investment services;

“non CIS customer transaction” means a transaction executed or to be executed as an agent of a non CIS customer but does not include an own account transaction;

“notifiable event” means an event or circumstance specified in Part II of Schedule 4;

“officer”—

- (a) in relation to a body corporate, means any director or secretary;
- (b) in relation to an unincorporated association, means any member of the governing body of the association; and
- (c) in relation to a partnership, means any partner;

“open-ended investment company” has the meaning given in section 2 of the Act;

“operator” has the meaning given in section 2 of the Act and includes the Authorised Corporate Director of an investment company with variable capital;

“option” means an option to acquire or dispose of an investment;

“order” in relation to an order from a customer or CIS customer means—

- (a) an order to a licensed person from the customer or CIS customer to effect a transaction as agent; or
- (b) any other order to a licensed person from the customer or CIS customer to effect a transaction in circumstances giving rise to similar duties as those arising on an order to effect a transaction as agent; or
- (c) a decision by a licensed person in the exercise or discretion for the customer;

“overseas person” means a person who carries on investment business but who does not do so from a permanent place of business maintained by him or her in Uganda;

“own account transaction” means a transaction effected or arranged by the operator in the course of making investments on its own account or on the account of an associate acting on its own account;

“own custodian” in relation to an operator, means an eligible

- custodian who is, or whose directors are, accustomed to act in accordance with the directions of the operator;
- “own nominee” means the nominee of a licensed person engaged by that person in CIS investment services;
- “permitted business” means CIS investment business which the Authority has, for the time being accepted in writing that the licensed person is permitted to carry on, as the basis of its licence;
- “Permitted Third Party or PTP” means a person whom a trustee or operator reasonably believes to be—
- (a) a licensed person; or
  - (b) an overseas person;
- “powers of intervention” means the Authority’s powers of intervention set out in Part IX of the Act;
- “principles” means the Statement of Principles made by the Authority under section 32 of the Act and set out in Schedule 1;
- “prospectus” has the meaning given in section 2 of the Act;
- “readily realisable investment” means a share or unit in a regulated Collective Investment Scheme or any marketable investment other than one which is traded on or under the rules of a recognised investment exchange so irregularly or infrequently—
- (a) that it cannot be certain that a price for that investment will be quoted at all times; or
  - (b) that it may be difficult to effect transactions at any price which may be quoted;
- “recognised scheme” has the meaning given in section 2 of the Act;
- “registrable activity” in relation to a licensed person means any one of the following—
- (a) holding the post of Director or Chief Executive;
  - (b) acting as an investment manager in the course of the permitted business of the licensed person;

- (c) acting in a senior capacity with responsibility either alone or jointly with one or more other individuals for the management, supervision and control of a part of the licensed person's permitted business (including the compliance officer and the finance officer);
- (d) procuring or endeavouring to procure other persons to enter into CIS agreements, or giving advice to persons with whom he or she deals, about entering into CIS agreements or exercising rights conferred by CIS agreements, in the course of the permitted business of the licensed person;

“regulated business” means investment business which is—

- (a) carried on from a permanent place of business maintained by a licensed person (or its appointed representative) in Uganda; and
- (b) carried on with or for customers in Uganda unless that business is—
  - (i) business carried on from an office of a licensed person outside Uganda which would not be treated as carried on in Uganda if that office were a separate person; or
  - (ii) business of an appointed representative of the licensed person which is not carried on in Uganda.

“regulated collective investment scheme” means a scheme licensed under sections 13 to 18 of the Act or a Scheme recognised under sections 24 to 27 of the Act;

“regulated insurance company” means an insurance company established and licensed under the Insurance Act;

“regulated market” means a market which is regulated, operates regularly, is recognised and is open to the public;

“regulations” means any regulations (including any rules) made by

the Authority, as altered, amended, added to or cancelled from time to time whether by the Authority or under the Act;

“regulatory system” means the arrangements for regulating a licensed person under the Act including the principles and the Regulations;

“scheme” means a Collective Investment Scheme;

“scheme documents” means the document or documents governing the operation of a scheme;

“scheme money bank account” means a bank account maintained under the control of and in the name of the depositary or trustee on behalf of a scheme and may include un-invested capital cash or income cash;

“scheme particulars” means a document containing information about a unit trust scheme as specified in Part IV of Schedule 1 to the Act;

“securities” has the same meaning as in section 2 of the Capital Markets Authority Act and security shall be construed accordingly;

“significant complaint” includes a complaint which cannot be settled quickly and directly, one which involves sums which are material in relation to the financial circumstances of the complainant or one which alleges—

(a) a breach of a CIS customer agreement;

(b) a failure to comply with responsibilities under the regulatory system;

(c) bad faith, malpractice or impropriety; or

(d) repetition or recurrence of any matter about which there has been recent complaint;

“special conditions” are any terms, conditions or restrictions on or subject to which a licensed person or an applicant is, or is

proposed to be, admitted or which otherwise apply to the licensed person over and above any general terms, conditions or restrictions contained in these Regulations;

“specific CIS advertisement” means a CIS advertisement which identifies and promotes a particular investment scheme or CIS;

“statement of representation” means a written representation statement in the form set out in and containing the contents required by Part IV;

“stop notice” means a written notice issued by the Authority under regulation 112 requiring that a clearance event shall not occur;

“subsidiary” means a subsidiary within the meaning given by section 154 of the Companies Act;

“trust beneficiary” means a beneficiary under a trust (not being the settlor) who benefits from the performance by a licensed person as trustee of CIS investment services relating to the management of the trust assets;

“trustee” has the meaning given in section 2 of the Act;

“trustee activity” means, in relation to a licensed person, any activity undertaken in the course of or incidental to the exercise of any of its powers, or the performance of any of its duties, when acting in its capacity as a trustee of a CIS;

“trustee company” means any licensed person to whom Division G of Part III applies;

“unit” has the meaning given in section 2 of the Act;

“unit trust scheme” has the meaning given in section 2 of the Act;

“umbrella company” has the meaning given in section 2 of the Act;

“umbrella unit trust scheme” means a Unit Trust Scheme whose trust deed provides for such pooling as is mentioned in section 3(3)(a) of the Act in relation to separate parts of the

scheme property and whose unit holders are entitled to exchange rights in one part for rights in another;

“unregulated collective investment scheme” means a collective investment scheme which is not a regulated collective investment scheme;

“valuation point” means a time fixed and disclosed by the operator for the purpose of regular valuation of scheme property;

“waiting period” means the period of twenty eight days within which the Authority may, under regulation 112, inform a member that it has no objection to the occurrence of a clearance event.

(2) Notes contained in these Regulations form part of the Regulations.

(3) Explanations contained in these Regulations do not form part of the Regulations.

## PART II—STANDARDS OF CONDUCT

### *Division A—Fitness and Properness*

#### **3. Criteria for judging fitness and properness.**

(1) Each licensed person shall recognise that the Authority has a continuing duty to determine whether a licensed person remains a fit and proper person for purposes of carrying on its permitted business.

(2) The Authority shall in determining whether a licensed person is a fit and proper person, take account of whether the licensed person has observed the principles set out in Schedule 1 in carrying on its permitted business or any other activity that may affect its permitted business.

**Note:** *The Principles are set out in Schedule 1. Licensed persons should read regulation 3 for a further statement of the effect of the principles on a licensed person’s conduct of its*

*permitted business.*

**4. Other matters which the Authority may take into account.**

The Authority may also take account of any other considerations as the Authority deems fit; including findings or decisions of courts or other bodies.

*Division B—Compliance with Regulations and Special Conditions*

**5. Requirement to comply.**

Every licensed person shall comply with—

- (a) these Regulations; and
- (b) any special conditions imposed on or accepted by the licensed person.

PART III—CONDUCT OF BUSINESS.

*Division A—Seeking CIS Customers and Advertising for Business*

**6. Issue and approval of CIS investment advertisements.**

(1) Where a licensed person issues or approves a CIS investment advertisement, or causes a CIS investment advertisement or CIS investment services advertisement to be issued or approved, it shall—

- (a) apply the appropriate expertise; and
- (b) be able to show that it believes, on reasonable grounds, that the advertisement is fair and not misleading.

(2) Where a licensed person issues or approves a specific CIS investment advertisement or CIS investment services advertisement or causes such an advertisement to be issued or approved, it shall ensure that the advertisement identifies it as issuer or approver and also identifies the Authority as its regulator.

**Note:** *The Advertising code applies, where relevant, to any investment advertisement. The Advertising Code is set out in*

*Schedule 2.*

**7. Issue and approval of CIS published recommendations.**

Regulation 6 applies to all CIS published recommendations of a collective investment scheme to the same extent as it applies to a CIS investment advertisement.

**8. Approval procedure and records.**

When issuing or approving a CIS investment advertisement or CIS investment services advertisement or CIS published recommendation, a licensed person shall ensure that—

- (a) it is approved by a specified individual who is responsible for seeing that the CIS advertising rules are, so far as applicable, complied with; and
- (b) records, including the name of the specified individual and the date of approval by him or her, together with a record of the evidence used to support any factual statement relevant to the product or service being advertised or recommended or of how access to such evidence may be obtained, are kept available for inspection by the Authority for not less than three years from the latest date of publication.

**9. Submission of CIS investment advertisement or CIS published recommendation to trustee or depositary.**

An operator shall send to the trustee or depositary, a copy of the CIS investment advertisement and CIS published recommendation issued by it and approved by the trustee or depositary.

**10. Restrictions and content of CIS direct offer advertisements.**

A licensed person shall take reasonable steps to ensure that it does not issue or approve-a-CIS-direct offer advertisement or cause the advertisement to be issued or approved unless the advertisement—

- (a) gives information about the investments or investment services and the risks involved; and
- (b) either contains the prospectus and scheme particulars for the CIS, or gives details of where a copy may be obtained.

## **11. Prohibitions on inducements.**

A licensed person shall take reasonable steps to ensure that neither it nor any of its agents—

(a) offers or gives; or

(b) solicits or accepts;

either in the course of regulated business or otherwise, any inducement which is likely to conflict with any duties of the recipient (or the recipient's employer) owed to customers in connection with regulated business.

## **12. Maintenance of records.**

A licensed person shall maintain sufficient records to demonstrate compliance with regulation 11.

**Note:** *Licensed persons should ensure that commission arrangements which are not disclosable, and any other inducements, are unlikely so to influence the recipients as to cause them to breach any duties which they may have.*

*Arrangements for the rebate or discounting of commission will not constitute an inducement where the licensed person can show that the arrangement is in the CIS customer's interest and the amount or basis of the commission rebate or discount is disclosed to that CIS customer.*

*Each licensed person is responsible for the conduct of its appointed representatives and if any of them breaches these Regulations, the Authority may proceed as if the licensed person had committed the breach.*

*Division B—Dealing, Managing and Advising*

## **13. Suitability of transactions.**

The operator of a collective investment scheme shall take reasonable steps to ensure that transactions are suitable for the scheme, having regard to the stated investment objectives of the scheme.

## **14. Dealing fairly and in due turn.**

An operator shall deal with a CIS customer, a CIS and own account

transactions fairly and in due turn.

### **15. Requirements for timely execution.**

(1) Once an operator has agreed or decided, in its discretion, to effect or arrange a current CIS customer order or current CIS order, it shall effect or arrange the execution of the order as soon as reasonably practicable in the circumstances.

(2) This regulation does not preclude an operator from postponing execution of a CIS order where it believes, on reasonable grounds, that the postponement is in the best interests of the CIS customer or CIS.

**Note:** *Best execution applies to dealing in underlying securities.*

### **16. Best execution.**

(1) Where an operator deals for a CIS or a CIS customer, it shall provide best execution.

(2) An operator may rely on another person who executes the transaction to provide best execution, but only if it believes, on reasonable grounds, that he or she will do so.

(3) For the purposes of this regulation, an operator provides best execution—

(a) if it takes reasonable care to ascertain the price which is the best available for the CIS or CIS customer in the relevant market at the time for transactions of the kind and size concerned; and

(b) unless the circumstances require it to do otherwise in the interests of the CIS or CIS customer, it deals at a price which is no less advantageous to it,

and in applying this regulation, an operator shall leave out of account any charges disclosed to the CIS or CIS customer which it or its agent would make.

**Note:** *Regulation 16 covers an operator selling securities as part of share exchange.*

## **17. When not to provide best execution.**

Subject to regulation 16, there is no obligation to provide best execution in relation to shares or units in a Collective Investment Scheme.

*Note: Regulation 17 applies to dealing in shares or units of a Collective Investment Scheme*

## **18. Timely allocation of transactions.**

An operator shall ensure that a transaction it executes is promptly allocated.

*Note: Regulation 18 applies to dealing in underlying securities.*

**Explanation:** *Where an operator has dealt collectively for, a collective investment scheme and CIS customers, or for one or more collective investment schemes or CIS customers and itself, or for non CIS customers, in addition to these, allocation of the transaction should be completed as soon as possible after the transaction is effected. Where there is any delay in completing the allocation, particularly where the intended basis of allocation has not been determined in advance of dealing, the reason for the delay should be fully documented.*

## **19. Recording allocation.**

An operator shall make a record of the intended basis of allocation—

- (a) when the operator is dealing for one or more CISs or CIS customers, either before or as soon as possible after the transaction is effected; or
- (b) when the operator is dealing for one or more CISs or CIS customers and itself, before the transaction is effected;

and that record shall be kept for at least seven years.

## **20. Re-allocation.**

Where an operator discovers an error, either in the intended basis of allocation or in the actual allocation, it may recommence the allocation on a different and correct basis provided that—

- (a) a written record of the reason for re-allocation is made at the time of re-allocation; and
- (b) it complies with all the provisions of regulations 21 and 22, so far as applicable.

**Note:** *Regulation 20 applies to dealing in underlying securities.*

## **21. Fair allocation of aggregated orders.**

Where an operator has aggregated an order for a CIS or CIS customer transaction with an order for an own account transaction, or with another order for a CIS or non CIS customer transaction, then in the subsequent allocation—

- (a) it shall not give unfair preference to itself or to any of those for whom it dealt; and
- (b) if all cannot be satisfied, it shall give priority to satisfying orders for CIS transactions and CIS customer transactions unless it is satisfied, on reasonable grounds, that without its own participation, it would not have been able to effect those orders either on such favourable terms or at all.

**Explanation:** *To avoid giving anyone “unfair preference” in allocating aggregated orders, allocations should be made in a manner which—*

- (a) is fair as between the operator and its CIS and CIS customers and among its customers themselves;*
- (b) is reasonable in the interests of all; and*
- (c) does not conflict with any relevant CIS customer’s instructions or the provisions of a CIS agreement.*

## **22. Price at which allocations are to be effected.**

Each aggregated transaction shall be allocated at the price paid per unit allocated, taking into account all relevant fees and commissions.

## **23. Application of uniform standards.**

Each allocation made by an operator shall be made in accordance with

standards and procedures which are uniform for all allocations made by the operator.

#### **24. Prohibition of insider dealing.**

(1) A licensed person shall not effect, either in Uganda or elsewhere an own account transaction when it knows of circumstances which mean that it, its associate, or an employee of either, is prohibited from effecting that transaction by the statutory restrictions on insider dealing.

(2) A licensed person shall use its best endeavours to ensure that it does not knowingly effect either in the course of regulated business or otherwise a transaction for a customer it knows is so prohibited.

(3) Subregulations (1) and (2) do not apply where—

(a) the prohibition applies only because of knowledge of the licensed person's own intentions; or

(b) the licensed person is a recognised market maker with obligations to deal in the investment;

(c) the licensed person is a trustee or personal representative who acts on the advice of a third party appearing to be an appropriate adviser who is not so prohibited.

**Note:** *Applies to dealing in underlying securities*

#### **25. Requirement to notify the Authority.**

Where an operator has reasonable cause to believe that it has effected a transaction prohibited under regulation 24, it shall inform the Authority immediately.

*Division C—Fair and Clear Communication*

#### **26. Requirement to ensure fair and clear communication.**

(1) An operator may make a communication with another person which is designed to promote the provision of CIS investment services only if it can show that it is satisfied, on reasonable grounds, that the communication is fair and not misleading.

(2) An operator shall take reasonable steps to ensure that any agreement, written communication, notification or information which it

gives or sends to an existing or potential CIS customer to whom it provides CIS investment services is presented fairly and clearly.

### *Reporting Transactions*

#### **27. Duty to report.**

An operator shall report to the trustee or depositary, in the form and manner prescribed in Schedule 5, details of all transactions effected outside a regulated market.

**Note:** *Regulation 27 applies to dealing in underlying securities.*

#### **28. Form and content of reports.**

The report required by regulation 27 shall include the following details—

- (a) the particulars of the parties to the transaction;
- (b) the identity of the relevant investment, and the number of securities or other assets bought or sold;
- (c) the date and time of the transaction;
- (d) the price paid or received; and
- (e) any other information relating to the transaction.

#### **29. Time limits for reporting.**

The report required by regulation 27 shall be made no later than the end of the business day following the day on which the transaction is effected.

#### **30. Other reporting requirements.**

An operator shall comply with any obligation it may have to report transactions under the rules of a regulated market.

#### **31. Providing essential details of transactions.**

(1) A depositary or trustee which effects a sale or purchase of an investment for a Collective Investment Scheme must ensure that the operator of that collective investment scheme is sent, with due despatch, a note containing the essential details of the transaction.

(2) An operator which effects a sale or purchase of collective

investment scheme units or shares on behalf of a CIS customer must ensure that that customer is sent, with due despatch, a note containing the essential details of the transaction.

(3) An operator which decides in its discretion to effect or arrange a CIS order must ensure that the depositary or trustee of that Collective Investment Scheme is sent, with due despatch, a note containing the essential details of the transaction.

(4) The contract note shall take the form stipulated in Schedule 6.

**Note:** *Regulation 31 applies to both dealing in shares or units and underlying securities.*

#### *Division D—CIS Customer Money*

### **32. Duty to obey CIS customer money regulations.**

A trustee or depositary shall comply with the requirements of this Division and regulations 63 to 68.

### **33. CIS customer money.**

A trustee or depositary who holds CIS customer money shall ensure that the money is paid immediately into either a current or deposit account with an approved bank which is in the name of the trustee or depositary as trustee or depositary of the CIS and its title sufficiently distinguishes it from any other account held by the operator of the scheme.

### **34. CIS customer money bank.**

An operator may not hold CIS customer money with an approved bank which is an associate of the operator.

#### *Division E—Anti-Money Laundering*

### **35. Compliance with relevant legislation.**

A licensed person shall comply with any relevant legislation relating to anti-money laundering to the extent applicable to that licensed person.

**36. Material interests and conflicts of interest.**

Where a licensed person has a material interest in a transaction to be entered into with or for a CIS or CIS customer, or a relationship which gives rise to a conflict of interest relating to that transaction, the licensed person shall not knowingly either advise, or deal in the exercise of discretion, in relation to that transaction, unless it takes reasonable steps to ensure fair treatment for the CIS or CIS customer.

**37. Fair treatment.**

When taking reasonable steps to ensure fair treatment for the CIS customer, an operator of a Collective Investment Scheme who has a material interest or conflict of interest relating to a transaction for the scheme, shall satisfy itself that the transaction is not precluded by law or, where applicable, by the Collective Investment Schemes (Unit Trusts) Regulations, 2003, the Collective Investment Schemes (Open Ended Investment Companies) Regulations, 2003 or by the Scheme Documents, and that—

- (a) the scheme documents expressly permit such transactions to be effected despite the existence of a material interest or conflict; or
- (b) the operator has fairly disclosed the potential interest or conflict in the initial prospectus or scheme particulars, or in its most recent report to the participants or to the trustee or depository of the scheme not more than 12 months before the date of the transaction; or
- (c) where such disclosure was impracticable, the operator, in effecting the transaction, disregards the interest or conflict so that any disadvantage to the scheme is avoided, or eliminates the interest or conflict.

*Significant Influence Over Company Management*

**38. Acquisition of securities carrying voting rights.**

The operator of a licensed scheme may not acquire or cause to be acquired for the scheme, the securities of any body corporate if they carry voting rights which, taken together with those of any such securities which the operator already holds for that scheme or for other regulated Collective Investment Schemes, would give the operator

power significantly to influence the conduct of business of that body corporate.

### **39. Operator to reduce influence.**

(1) Where the operator acquires the power significantly to influence the conduct of business of a body corporate in circumstances or for reasons beyond its control, it shall take steps to reduce that power below the significant level by disposing of securities as soon as reasonably practicable having regard to the interests of present and future participants in the scheme or schemes concerned, and in any case within six months of becoming aware that it has acquired that power.

(2) Where an operator acquires the power significantly to influence the conduct of a body corporate in consequence of its own decision, it shall take immediate steps to dispose of securities to reduce the power below the significant level, and if that action results in a loss being sustained by a scheme, the operator shall, from its own resources, compensate the scheme with cash.

### **40. Definition of significant influence.**

For the purposes of regulations 38 and 39, a power significantly to influence the conduct of business of a body corporate arises if the operator exercises or controls the exercise of 15% or more of the votes eligible to be cast at a general meeting of that body corporate, disregarding, for this purpose, any temporary suspension of voting rights in respect of the securities of that body corporate.

#### *Pricing Controls*

### **41. Application of regulations.**

(1) Regulations 42 to 56 apply to operators.

(2) Regulations 55 and 57 apply to depositaries and trustees.

**Note:** *Regulation 47 provides details of the types of checks and standards of control which an operator and the depositary or trustee shall have in place for the valuation of the scheme property and pricing of shares or units.*

*It also details the type of control regime the Authority considers that an operator shall employ to satisfy its obligations in connection with the pricing of shares or units in schemes under its control.*

*Evidence of persistent or repetitive errors, or errors consistently in an operator's favour, is likely to make it more difficult for an operator to demonstrate it meets the standards in this regulation.*

*An operator should determine its method for valuing the scheme property and apply it on a consistent basis.*

#### **42. Source of share prices and currency rates.**

(1) Share prices and currency rates used by an operator shall be up to date and from a reputable source.

(2) It is not necessary to carry out significant substantive checking, but the reliability of the source of prices and rates shall be kept under regular review and doubtful prices or rates shall be followed up.

#### **43. Valuation agents.**

(1) The use by an operator of a third party to carry out the valuation function amounts to delegation.

(2) Where the pricing function is delegated or when assistance is obtained, the operator shall satisfy itself that the valuation agent's system is robust and will produce accurate results.

(3) An operator shall keep the valuation agent's controls and procedures under review; the review shall ensure that changes to controls and procedures, including a series of minor changes, do not have a significant adverse effect on the accuracy of the system.

(4) An operator shall review the outputs from the system regularly, and any significant system change.

(5) Where the valuation agent is also responsible for calculating dealing prices of units or shares, an operator shall regularly review this

system.

#### **44. Reconciliation.**

(1) Unless the valuation and record keeping systems are integrated, the valuation output shall be agreed with an operator's records of the scheme at each valuation point.

(2) An operator's records, including those relating to debtors and creditors, shall be agreed with the depositary's or trustee's records of stocks and both capital and income cash on at least a calendar month basis between the operator and trustee or depositary; reconciling items shall be followed up promptly, and debtors reviewed for recoverability.

#### **45. Inclusion of investment transactions in valuations.**

(1) Systems shall be in place by which all investment transactions are confirmed as quickly as possible in writing or by electronic means to an operator or to a valuation agent.

(2) All deals to which the licensed scheme is committed, which have been notified not less than one hour before a valuation, shall be included in that valuation, at estimated prices if necessary.

(3) Except where there is likely to be significant movement in the price of a unit, it is more important that an accurate cut-off procedure is in place to ensure that omissions or duplications do not take place, than it is to ensure that estimates are included in a valuation.

#### **46. Prices obtained otherwise than from the main pricing source.**

(1) Where prices are obtained otherwise than from the main pricing source (for example unquoted, suspended, or illiquid stocks), an operator shall maintain a record of the source and basis for the value placed on the investment.

(2) The methodology, procedure and controls for the valuation of those investments shall be regularly reviewed to ensure that the valuations are fair and reasonable in the circumstances.

(3) Where no price is available from a main pricing source, valuation of equities shall be at cost of acquisition unless—

- (a) the liquidation value per share of the company at the last balance sheet date, after it has been discounted by 20%, is higher than the cost, in which the discounted liquidation value shall be used;
- (b) the actual liquidation value is lower than cost in which case the actual liquidation value shall be used after it has been discounted by 20%;
- (c) there has been a publicly disclosed transaction in which more than 10% of the issued capital has changed hands at a price, which, discounted by 10%, is higher than cost or at the actual price of the transaction where it is lower than cost, in which case the discounted transaction price shall be used;
- (d) the company has issued new shares at a price which, when discounted by 10%, is higher than cost in which case the discounted new issue share price shall be used or when the actual price of the issue is lower than cost, in which case this lower price shall be used.

(4) For debt instruments where no price is available from a main pricing source, short term debt instruments, that is, those with a maturity of under 365 days at the valuation point, shall be valued at cost (including accrued interest until the beginning of the day) plus the difference between the redemption value (inclusive of interest) and cost spread uniformly over the remaining maturity period of the instrument.

(5) For debt instruments where no price is available from a main pricing source, longer term debt instruments, that is, those with a maturity of over 365 days at the valuation point, shall be valued on the basis of applying the redemption yield according to the maturity of that particular bond.

#### **47. Investment and borrowing procedures.**

Licensed persons shall have in place procedures to monitor the applicable rules and regulations on investment and borrowing procedures and should breaches occur, to ensure they are rectified promptly.

#### **48. Unapproved securities.**

To assist with the identification of the level of investment in securities that are not approved securities, the operator shall notify the depository or trustee of any trade in unapproved securities by no later than the close of business following the date of the transaction.

#### **49. Dividends, interest and expenses.**

(1) A system shall be in place to ensure that dividends are accounted for as soon as stocks are quoted ex-dividend, unless it is prudent to account for them only on receipt.

(2) Fixed interest dividends and interest shall be accrued at each valuation point unless the level of materiality makes a longer interval appropriate.

(3) Expenses of a licensed scheme must be accrued unless the level of materiality makes a longer interval appropriate.

#### **50. Tax positions relevant to a licensed scheme.**

(1) The full tax position of a licensed scheme shall be reviewed regularly, including the basis for the current tax charge, the assumptions being used, and the tax rate applicable.

(2) Adjustments shall be made for substantive changes; for example alterations to the tax profile or likely tax charge when they occur.

#### **51. Valuation limits.**

(1) An operator shall fix a percentage or absolute limit for certain key elements of the valuation referred to in subregulation (2), so that any movement outside the limits is investigated and the investigation and its outcome shall be evidenced and retained by the operator.

(2) The key elements, where relevant, include—

(a) the movement of the prices and values of individual stocks;

(b) changes in currency rates; and

(c) accrual figures for income, expenses, and tax.

(3) Prices which appear not to have changed after a fixed period of

time should be investigated, since this may be the result of a price movement having been missed.

**52. Cash.**

Cash shall be reconciled to the bank account regularly, with outstanding items promptly followed up and a full reconciliation should be sent to the depositary or trustee at a frequency agreed with the depositary or trustee.

**53. Recording of CIS shares or units in issue.**

Controls shall be put in place to ensure that the correct number of units or shares in issue is recorded at each valuation point and this shall be reconciled with the register of unit holders or shareholders, on at least a calendar monthly basis.

**54. Verification by investment adviser of assets of licensed scheme.**

(1) Where an investment adviser is appointed to a licensed scheme, a copy of the valuation used by the investment adviser to produce the price of the units should be sent to the operator at least weekly, which the operator must check.

(2) When the scheme's valuation point is less frequent than weekly, a copy of the valuation used shall be sent to the operator as soon as practicable after the valuation point.

**55. Review by depositary or trustee of operator's controls and systems.**

(1) The depositary or trustee shall thoroughly review an operator's controls and systems to confirm that they are satisfactory.

(2) The review shall be carried out—

- (a) at the start of a depositary's or trustees' appointment;
- (b) thereafter, on a frequency dependent on the risk profile of the licensed scheme;
- (c) when major changes are made by an operator to its systems; and
- (d) when necessary, to ensure that a series of minor changes do not have a significant adverse effect on the integrity of the systems.

(3) A review shall be carried out more frequently where a

depository or trustee knows or suspects that an operator's controls and systems are weak or are otherwise unsatisfactory: in particular, the prices of unapproved securities and, where noted, the basis for their calculation shall be subjected to frequent verification and an examination of the sources of the prices of those securities shall be carried out.

(4) Additionally, a depository or trustee shall, from time to time, review other aspects of the valuation of the scheme property of each licensed scheme for which it is responsible, verifying, on a sample basis, if necessary, the assets, liabilities, accruals, units issued, securities prices and any other relevant matters.

(5) The depository's or trustee's review shall include any analysis of the controls in place to determine the extent to which reliance can be placed on them.

(6) A depository or trustee shall ensure that any issues, which are identified in a review, are properly followed up and resolved.

(7) Where an operator's systems are manual, or have been installed or amended recently and are therefore unproven, the level of checking will need to be increased accordingly: this will also be necessary where a number of instances of incorrect pricing have previously been identified.

**Explanation:** *Regulation 61 provides details of the types of checks a depository or trustee must carry out to be satisfied that the operator adopts controls and systems which are appropriate to ensure that prices of units are calculated correctly, and to ensure that the likelihood of incorrect prices will be minimised. These checks also apply where an operator has delegated all or some of its pricing functions to a third party.*

## **56. Recording and reporting by operator.**

An operator shall record each instance where the last whole figure in shillings of a price of a unit or share is incorrect, and, as soon as the error is discovered, report the fact to the depository or trustee, together with details of the action taken, or to be taken, to avoid repetition.

**Explanation:** *The purpose of this regulation is that the operator should take account only of a rounded price in shillings,*

*ignoring any fractions.*

**57. Reporting by depositary or trustee.**

(1) The depositary or trustee shall report any instances of incorrect pricing immediately upon receipt of notice from the operator and in doing so state as well as the amount of the error in terms of percentage of the price per unit or share—

- (a) whether an operator has followed the pricing controls set out in regulations 42 to 54;
- (b) the significance of any breakdown in management controls or other checking procedures;
- (c) the significance of any failure of systems, including situations where inadequate back-up arrangements exist; and
- (d) the duration of an error (the longer error persists, the more likely that it will have a material effect on price).

(2) The depositary or trustee shall also report to the Authority, immediately, any instance of incorrect pricing where the error is greater than 1% of the price of a unit share where the depositary or trustee believes that reimbursement or payment is inappropriate and should not be paid by an operator

(3) Where a pricing error is less than 1%, the depositary or trustee may agree that there is no need to compensate either the licensed scheme or the CIS customer of that scheme, if the depositary or trustee is satisfied that the operator has followed the pricing controls specified in these Regulations and in this event, the depositary or trustee shall make and retain records of that decision.

*Division G—Depositary and Trustee Activities*

**58. Application of regulations.**

(1) The regulations in this Division apply to a licensed person only in relation to those depositary and trustee activities provided to schemes under the Act and to which the regulations apply.

(2) In undertaking an activity referred to in subregulation (1) a

depository or trustee is subject to the provisions of this Division whether it undertakes the depository and trustee activities regularly, or on an isolated occasion and it shall comply with all the other provisions of these Regulations.

**Note:** *The licensed person should note from regulation 58 that the regulatory regime reflected in Division G applies to a depository or trustee only in relation to its “depository and trustee activity”, which is any activity undertaken in the course of or incidental to the exercise of any of its powers, or the performance of any of its duties, when acting in its capacity as a depository or trustee.*

### **59. Exception to regulation 58.**

A depository or trustee will not be taken to have breached the regulations applying to it if it contravenes them as a result of a legal duty.

### **60. Use of Permitted Third Party (PTP).**

A depository or trustee may use the services of a PTP only if—

- (a) the depository or trustee has notified the Authority of its intention to use such services, either generally or in relation to specific activities constituting investment business;
- (b) the depository or trustee reasonably believes that the PTP is suitable to perform for the depository or trustee the investment activity in question;
- (c) the use of such services is authorised, whether under the express terms of the instrument governing the scheme or otherwise, and is not prohibited by any applicable law;
- (d) the use of such services is reasonable in the circumstances and, in a case where the PTP is managing investments, the depository or trustee exercises reasonable supervision over that activity;
- (e) the depository or trustee supplies to the PTP all information believed by the depository or trustee to be material and any other relevant information reasonably requested by the PTP; and
- (f) where a complaint about an activity being carried on by a PTP

for a depositary or trustee is referred to the depositary or trustee by a CIS customer of a CIS to which the depositary or trustee is a depositary or trustee, the depositary or trustee promptly considers whether, consistently with its duties as such depositary or trustee, it should pursue the complaint against the PTP and, if it so concludes, promptly pursues the complaint accordingly.

**61. Depositaries or trustees of licensed collective investment schemes.**

(1) In relation to its activities as depositary or trustee of a licensed scheme, a depositary or trustee shall be treated as having contravened these Regulations if it contravenes any of the applicable requirements of the Collective Investment Schemes (Unit Trust) Regulations, 2003 and the Collective Investment Schemes (Open-Ended Investment Company) Regulations, 2003 and any other regulations under the Act applicable to the conduct of CIS trustee or depositary business.

(2) The depositary or trustee of a licensed scheme shall report immediately in writing to the Authority, any facts which come to the knowledge of the depositary or trustee of the licensed scheme from which it appears, or might appear, that the operator of the scheme has failed materially—

- (a) to give correct instructions to the depositary or trustee to create or cancel shares or units in the scheme when the operator should have done so;
- (b) to price units in the scheme in accordance with the Collective Investment Schemes (Unit Trust) Regulations, 2003 and the Collective Investment Schemes (Open-Ended Investment Company) Regulations, 2003; or
- (c) to ensure that any CIS related investment advertisement issued or approved by the operator complies with the CIS advertising rules.

(3) The depositary or trustee of a licensed scheme shall submit to the Authority, every three months, a written return (to be received by the Authority not later than one month after the end of that period) stating, by reference to the operator of each licensed scheme in respect of which

the licensed person is a depositary or trustee, the number of times during the period covered by the return in which facts came to the licensed person's knowledge from which it appeared or might have appeared that the operator had failed, materially or otherwise in the manner set out in subregulation (2), except where the failure was an isolated incident.

### *Compliance, Reporting and Records*

#### **62. Maintenance of records.**

A depositary or trustee shall maintain all appropriate records to enable it to report to the Authority, in whatever manner prescribed, covering its own licensed activities and those of operators for whom it acts in this respect.

#### **63. Notification to approved bank.**

(1) When a depositary or trustee opens a CIS bank account, the depositary or trustee shall give or have given written notice to the approved bank requiring the bank to acknowledge to it in writing—

- (a) that all money standing to the credit of the account is held by the depositary or trustee as trustee and that the bank is not entitled to combine the account with any other account or to exercise any right of set-off or counterclaim against money in that account in respect of any sum owed to it on any other account of the depositary or trustee;
- (b) that interest earned on the account shall be credited to the account, or to an account of that type; and
- (c) that the title of the account sufficiently distinguishes the account from any account containing money that belongs to the depositary or trustee, to other collective investment schemes to which the depositary or trustee provides services or to the operator, and is in the form requested by the depositary or trustee.

(2) In the case of a CIS bank account in Uganda, if the Approved Bank does not provide the acknowledgement referred to in subregulation (1) within twenty business days of the despatch of the notice by the depositary or trustee, the depositary or trustee shall—

- (a) withdraw all money standing to the credit of the account; and

- (b) close that account, and deposit the money in a customer bank account with another approved bank.

(3) A depository or trustee shall not commence business as a depository or trustee of a collective investment scheme unless it has opened a CIS bank account for each of the collective investment schemes it services; and which complies with the provisions of this regulation.

**64. Post-dated cheque.**

Where a depository or trustee receives CIS customer money in the form of a post-dated cheque it shall—

- (a) record, within one business day of receipt of the cheque, the date of receipt, the customer’s name and (if different) the name of the person on whose account the cheque is drawn, the date on the cheque and the amount of the cheque; and
- (b) ensure that the cheque is kept safely until it is properly banked; and
- (c) on the due date the cheque is paid into the CIS bank account as required by these Regulations.

**65. Discharge of fiduciary duty.**

(1) Money ceases to be CIS customer money if it is paid—

- (a) to the customer;
- (b) to a third party on the instruction of the customer;
- (c) into a bank account in the name of the customer (not being an account which is also in the name of the operator); or
- (d) to the operator or depository or trustee itself where it may be so paid under these Regulations.

(2) Where a depository or trustee draws a cheque or other payable order to discharge its fiduciary duty under subregulation (1), it must dispatch that cheque or order to the CIS customer, or to another party

permitted by subregulation (1)(b), within one business day of the cheque or order being drawn.

(3) Where a depositary or trustee makes a payment to a CIS customer, or to a third party on the instructions of the CIS customer, from an account other than a CIS bank account, the sum of money in the CIS bank account equivalent to the amount of that payment will not become due and payable to the depositary or trustee until the customer or other party has received that payment in cleared funds, since only then will the depositary or trustee obligations have been performed.

#### **66. Payment of money into CIS customer bank account on instruction of Authority.**

Where, pursuant to an instruction lawfully given by the Authority, an operator or depositary or trustee pays its own money into a CIS bank account, such money must be treated as CIS customer money for the purposes of these Regulations.

#### **67. Segregation of CIS customer money.**

(1) Where a depositary or trustee holds CIS customer money, it shall ensure that, except to the extent permitted in subregulation (2), the money remains separate from the operator's own money and from that of other CIS and other clients to which it provides services.

(2) The only money other than CIS customer money which may be in a CIS bank account is—

- (a) a minimum sum required to open the account or keep it in being;  
and
- (b) interest credited to the account which exceeds the amount due to CIS customers as interest and has not yet been withdrawn by the depositary or trustee.

#### **68. Reconciliation.**

(1) The operator, depositary or trustee shall reconcile any CIS customer money accounts once in every twenty-eight days.

(2) The operator, depositary or trustee shall have a time limit of ten days to carry out the reconciliation after the twenty-eight days.

(3) Any failure to reconcile CIS customer money accounts shall be reported immediately to the Authority after the expiry of the ten days.

**69. Scheme money to be held with approved bank.**

(1) Where a depositary or trustee holds scheme money, it shall ensure that the money is held in a separately designated bank account with an approved bank, but this requirement does not apply to a depositary or trustee which is a bank and holds scheme money in a designated bank account with itself.

(2) A separate scheme money bank account shall be held for each scheme for which the depositary or trustee acts in this capacity.

**70. Segregation of scheme money.**

(1) Where a depositary or trustee holds scheme money, it shall ensure that, except to the extent permitted or provided for in regulation 71, the money remains separate from its own money, that of other CIS that it services, other clients, and the operator's money.

(2) The only money other than scheme money which may be held in a scheme money bank account is—

- (a) a minimum sum required to open the account or keep it in being;  
and
- (b) any money temporarily in the account under regulation 71(3).

**71. Payment of scheme money into scheme money bank account.**

(1) Where a depositary or trustee begins to hold scheme money, it shall either—

- (a) pay it, as soon as possible, (and, in any event, no later than the next business day after so beginning) into the relevant scheme money bank account; or
- (b) pay it out, or pay it over in a manner which ensures that it is no longer scheme money.

(2) Where scheme money is received by the depositary or trustee in the form of an automated transfer, the depositary or trustee shall ensure

that—

- (a) where possible, the money is transferred into the relevant scheme money bank account; and
- (b) in the event that the money is transferred into the depositary's or trustee's own account the money is paid into the relevant scheme money bank account no later than the next business day after the transfer.

(3) Where a depositary or trustee receives a 'mixed remittance' (that is an aggregate sum of money which is in part scheme money and in part other money) it shall pay the full sum into the relevant scheme money bank account, but shall then ensure that, except to the extent that it represents fees and commission due to it, the other money is paid out of the account within one business day from the day on which the depositary or trustee would normally expect the remittance to be cleared.

(4) Where a depositary or trustee receives dividends overseas on behalf of licensed schemes, it may pay that money into any bank account operated by it, provided that the depositary or trustee ensures that that money is distributed to the schemes concerned, or paid into a separately designated bank account, within five business days after receipt.

## **72. Payment of money into trust bank account on instruction of Authority.**

Where, in accordance with an instruction lawfully given by the Authority, an operator, depositary or trustee pays its own money into a separately designated bank account, the money shall be treated as scheme money for the purposes of regulations 69 to 71, and this regulation.

## **73. Accounting records.**

(1) A depositary or trustee shall keep accounting records which are sufficient to show and explain its transactions in respect of scheme money, and which shall in particular contain—

- (a) entries from day to day of—

- (i) all money which is paid into or out of any scheme money bank account;
  - (ii) receipts and payments of scheme money not passed through a scheme money bank account, identifying the persons to whom each such receipt and payment relates; and
- (b) a record of the balances held on each scheme money bank account.

(2) The accounting records shall also show, in respect of each deposit into or withdrawal from a scheme money bank account—

- (a) the name of the scheme concerned;
- (b) the date; and
- (c) the name of the person to whom, or in the case of a deposit, from whom the money was paid or transferred or, in the case of a deposit, received.

#### **74. Nature of accounting records.**

(1) Accounting records may be kept in a form other than a document or copy of a document, provided that the record can be reproduced in hard printed form.

(2) Where all the accounting records relating to any scheme are not kept together, each document or group of documents relating to it shall be accompanied by an indication that other accounting records relating to that scheme exist, and how access to them can be obtained.

(3) Subject to subregulation (4), a depositary or trustee may accept and rely on accounting records supplied by a third party so long as those records are capable of being, and are, reconciled with records created by it.

(4) A depositary or trustee may delegate to a third party its obligations to keep accounting records under regulations 58 to 60 but the depositary or trustee is responsible for the accuracy of those records, and for their compliance with these Regulations as if the records had been prepared by it.

(5) Accounting records shall be kept in English.

## **75. Audit trail.**

(1) Information required to be recorded shall be recorded in such a way as to enable a particular transaction to be identified at any time and traced through the accounting systems of the depositary or trustee.

(2) All accounting records shall be arranged, filed and indexed so as to permit prompt access to any particular records.

## **76. Retention of records.**

(1) A depositary or trustee shall keep the records required by regulations 73 to 75 together with any working papers which are created to assist in the preparation of a reconciliation or other record for a period of seven years from the date on which they are made or prepared.

(2) During the first two of the seven years referred to in subregulation (1), records and working papers shall be kept either at a place where the depositary or trustee carries on business, or in such manner that they can be produced at such a place within 24 hours of their being requested.

## **77. Reconciliation of depositary's or trustee's records with approved bank's records.**

(1) Subject to subregulation (2), a depositary or trustee shall—

(a) as often as necessary to ensure the accuracy of its records, and at least once in every five weeks, reconcile the balance on each CIS bank account (as recorded by the depositary or trustee) with the balance on that account (as set out on the statement or other form of confirmation issued by the approved bank), currency by currency;

(b) perform the reconciliation carried out in accordance with paragraph (a) within ten business days after the date to which the reconciliation relates; and

(c) correct any difference arising on the reconciliation as soon as possible, unless the difference arises solely as a result of timing differences between the accounting systems of the approved bank and of the depositary or trustee.

(2) Subregulation (1) does not apply to a depositary or trustee which is a bank to the extent that it holds trust money with itself and such a depositary or trustee shall—

(a) as often as necessary to ensure the accuracy of its records, and at least once in every five weeks, ensure that the balance on each CIS bank account held by it properly reflects all sums of money paid into or out of that account as recorded in accordance with regulation 73; and

(b) shall correct any difference arising as soon as possible.

### **78. Failure to perform reconciliations.**

(1) A depositary or trustee shall notify the Authority immediately where it is unable to perform the reconciliations required by regulation 77.

(2) Where a depositary or trustee is unable to resolve a difference arising from a reconciliation within the period allowed for the performance of the reconciliation under these Regulations, but one of the sets of records examined by the depositary or trustee during its performance of the reconciliation indicates that there might need to be a greater amount of money in the relevant scheme money bank account than is in fact the case, the depositary or trustee shall assume, until the matter is finally resolved, that that set of records is accurate and pay its own money into the relevant CIS bank account; and that money will thereafter be treated as scheme money (until any time at which the difference is resolved, when the money concerned will be repaid to the depositary or trustee).

### **79. Notification to Authority on default of approved bank.**

A depositary or trustee shall notify the Authority as soon as it is aware of the default of any approved bank with which it has deposited scheme money.

### **80. Auditor's report.**

(1) A depositary or trustee shall cause such records as are required to be maintained by regulations 69 to 79 to be examined from time to time by its auditor.

(2) The auditor shall report to the Authority, in writing, in relation

to the same periods in respect of which he or she is required to report on the depository's or Trustee's financial statements or, where the depository or trustee is not required to prepare such statements, in relation to periods of not more than twelve months—

- (a) whether or not, in his or her opinion, the depository or trustee has adequate systems to have enabled it to comply with regulations 69 to 79 throughout the period reported on;
- (b) whether or not, in his or her opinion, the depository or trustee was, at the conclusion of that period, in compliance with regulations 69 to 79; and
- (c) any breaches of the regulations which had come to his or her attention during the period (disregarding any trivial breaches).

### **81. Submission of Auditor's report.**

A depository or trustee shall ensure that the audit report is complete and sent to the Authority within three months after the end of the period to which it relates.

## **PART IV—COMPLIANCE, REPORTING, RECORDS AND COMPLAINTS**

### *Division A—Compliance, Inspections and Records*

### **82. Compliance by officers and employees with regulatory system.**

(1) A licensed person shall take reasonable steps, including the establishment and maintenance of procedures, to ensure that its officers and employees act in conformity with their own and their employer's relevant responsibilities under the regulatory system.

(2) The duty under subregulation (1) includes a duty to take reasonable steps to ensure that its officers and employees are fit and proper persons to be engaged in the duties assigned to them.

**Note:** *Principle 9 of the CIS licensed person principles requires a licensed person to have adequate arrangements to ensure that its employees are suitable, adequately trained and properly supervised. These arrangements should cover recruitment procedures, including the vetting of applicants*

*for employment and the taking-up of references.*

**83. Appointment of compliance officer.**

A licensed person shall ensure that its compliance procedures include the appointment of a compliance officer of appropriate status and experience.

**84. Written statement of compliance procedures.**

(1) A licensed person shall ensure that its compliance procedures are set out in writing, and that a copy of that part of the written compliance procedures relevant to the investment business carried on by a given office of the licensed person is kept at that office.

(2) Copies of the document shall be available to each officer and employee of the licensed person who is engaged in the licensed person's permitted business.

*Note: A licensed person may record its compliance procedures in more than one document, in order to tailor its compliance manual to the requirements of different offices or departments.*

**85. Supervision of company representatives.**

A licensed person shall establish and maintain procedures with a view to ensuring that each of its company representatives—

(a) does not procure, endeavour to procure or advise anyone to enter into a transaction if the company representative is not competent to advise on that transaction or to assess its suitability for investors; and

(b) behaves in a reasonable manner when calling upon a customer.

**86. Contracts of employment and contracts for services.**

A licensed person shall—

(a) ensure that under its terms and conditions of service, or contracts for services, each of its employees who are engaged in its permitted business or in activities affecting that

business, give the undertakings in regulation 87; and

- (b) use all reasonable endeavours to ensure that all other persons who are engaged in its permitted business or in activities affecting that business give those undertakings.

**Note:** *The undertakings required to be given by employees and appointed representatives by regulation 87 may be contained in their contracts of employment or for services or in any other separate document.*

### **87. Undertakings required.**

Each person referred to in regulation 86 shall individually or corporately, in so far as it is reasonable in that person's power, undertake to obey—

- (a) these Regulations as if they were directly binding; and
- (b) the licensed person's written compliance procedures.

### **88. Consequence of breach.**

In the event of a breach of any of the terms and conditions of service or contracts for services referred to in regulation 86 which the Authority shall consider material, a licensed person shall take such steps as the authority may in writing request and as may be within the power of the licensed person, to enforce the relevant terms and conditions or contracts.

### **89. Written statement of representation.**

Each licensed person shall provide the Authority, twice a year, (or more frequently if deemed necessary by the Authority) with a written statement of representation for the period since the previous statement (or, if none, since the licensed person became licensed) to a date determined by the Authority, being either the licensed person's mid-year point or, in special circumstances, an alternative date agreed with the Authority.

### **90. Form and contents of written statement of representation.**

Statements of representation shall be in the form set out in, and provide the information required by Schedule 3.

**91. Time limits for submission of written statement of representation.**

The Authority shall receive the statement of representation not more than two months after the end of the period to which it relates.

**92. Compliance by officers and employees with statutory restrictions on insider dealing.**

A licensed person shall take reasonable steps, including the establishment and maintenance of procedures, to ensure that its officers and employees act in conformity with, where relevant, the requirements of the statutory restrictions on insider dealing.

**93. Compliance by officers and employees with personal dealing arrangements.**

A licensed person shall take reasonable steps, including the establishment and maintenance of procedures, to ensure that its officers and employees act in conformity with appropriate arrangements on propriety in personal dealings.

**94. Prohibited dealings.**

Each licensed person shall take reasonable steps to ensure that none of its officers or employees, either on his or her own account or on that of any connected person, effects any transaction—

- (a) in an investment at any time if he or she knows or should reasonably know that this would contravene section 88 of the Capital Markets Authority Act or regulation 24(2); or
- (b) if he or she knows or should know that to do so would involve him or her in a conflict between his or her own interest or that of any connected person and that of any CIS customer or his duty to any CIS or CIS customer.

**95. Notification of dealings.**

Licensed persons shall take reasonable steps to ensure that its officers and employees inform the licensed person as soon as reasonably

practicable after a transaction of the kind described in regulation 94(*a*) or (*b*) has been effected.

**96. Disclosure of office or employment.**

Each licensed person shall take reasonable steps to ensure that, if any of its officers or employees, either on his or her own account or on that of any connected person, with or through the agency of another licensed person, effects a transaction relating to an investment of a description in relation to which the licensed person carries on permitted business—

- (a) he or she informs that other licensed person that he or she is an officer or employee of the licensed person; and
- (b) he or she does not request or accept from that other licensed person any credit or special dealing facilities in connection with the transaction, unless the licensed person has given specific consent.

**97. Record of consent.**

Each licensed person shall make a record of each consent given under regulation 96.

**98. Notification of transactions effected.**

A licensed person shall ensure that, if any of its officers or employees effects a transaction in an investment of any description with or on behalf of a customer whom he or she knows to be an officer or employee of a person who carries on investment business in relation to investments of the same description, that person is informed of the transaction, its terms and the identity of the customer, unless the officer or employee has good reason to believe that that person has consented to the transaction being effected.

**99. Observance by connected persons.**

(1) A licensed person shall take reasonable steps to ensure that each of the licensed person's officers or employees, takes reasonable steps to ensure that when any connected person is acting on his or her own account, that person observes the requirements of regulations 93 to 98 as though they applied to that person.

(2) This regulation does not apply where the connected person is an officer or employee of another licensed person and acts on his or her own account in connection with a transaction in an investment of a description in relation to which that other licensed person carries on permitted business.

**Note:** *The term “connected person” is defined in regulation 2 to mean anyone connected with the officer or employee concerned by reason of a domestic or business relationship (other than as arises solely because that person is a CIS or non CIS customer of the licensed person), such that the officer or employee has influence over that person’s judgment as to how to invest his or her property or exercise any rights attaching to his or her investments.*

#### *Access and Inspections by the Authority*

### **100. Access and inspections by Authority.**

The Authority may inspect records required to be maintained by a licensed person.

### **101. Extension of regulation 100.**

(1) The Authority is also entitled to conduct inspections into the conduct of the whole or any part of any licensed person’s activities relating to or affecting a licensed person’s permitted business.

(2) Any inspection carried out under regulation 100 or subregulation (1) may be conducted on any basis that the Authority considers appropriate.

**Note:** *“Inspection” is defined to mean “an Inspection of whatsoever kind” carried out under regulation 100 or 101. Therefore it may include routine Inspections on a pre-arranged basis and random spot checks.*

### **102. Co-operation by licensed persons.**

(1) Each licensed person shall co-operate to the fullest possible degree with any inspection.

(2) Without limiting the generality of the obligation under subregulation (1), a licensed person shall ensure that it and, to the extent that they are under its power or control, any persons who are its directors, officers, employees or company representatives, shall upon request—

- (a) make themselves readily available to any inspection team;
- (b) produce to any inspection team, any documents, files, computer data and other material in his or her or its possession, power or control that the team considers necessary for the performance of its duties;
- (c) give the inspection team access, at all times, to the licensed person's premises and reasonable facilities in the premises (including access to any records, files or computer systems) as the inspection team may require;
- (d) permit the inspection team to copy documents or other material on the licensed person's premises or elsewhere at the licensed person's expense and to remove copies and hold them elsewhere;
- (e) answer truthfully, fully and promptly all questions put to them by any member of the inspection team; and
- (f) suspend recording entries until checks on the observance of these Regulations have been completed.

### *Records*

#### **103. Record keeping requirements.**

A licensed person shall take reasonable steps, including the establishment and maintenance of procedures, to ensure that sufficient information about its regulated business is recorded and retained.

#### **104. Records to be kept.**

Each licensed person shall make a record of those events and matters which concern it as specified in these Regulations; and shall keep the

records for the minimum period of retention of seven years even if this extends beyond the cessation of the licensed person's business.

**Note:** *A licensed person may keep a record required under regulation 104 in any form, provided it is capable of reproduction in hard printed form within one business day.*

### **105. Form of records.**

The records referred to in regulation 104 shall be maintained in English.

### **106. Inspection of records relating exclusively to one CIS customer.**

A licensed person shall allow a CIS customer to inspect, either personally or through an agent, any record of matters relating exclusively to him or her within seven days after receiving his or her request.

### **107. Inspection of other records.**

If a licensed person's CIS customer asks to inspect any entries in its records which relate to transactions effected by the licensed person with or for him or her, but which are not exclusive to him or her, the licensed person may refuse and, if so, the licensed person must inform the customer that the customer has the right to inspect those entries if the Authority thinks it appropriate.

### **108. Destruction of records or files.**

Without limiting any other obligation under these Regulations or under general law, a licensed person shall take all steps within its power to ensure that without the express consent in writing of the Authority, no record or file shall be amended or destroyed if it may be relevant to any matter which is currently the subject of an inspection, an investigation or any disciplinary or other process.

**Note:** *Licensed persons who keep their records on computer disk, tape or the like would be well advised to duplicate that material at regular intervals to avoid the risk of total loss through computer error, "wiping" or otherwise. Computer loss may be an extenuating circumstance but its occurrence cannot relieve a licensed person from the consequences of a failure to comply with these Regulations.*

**109. Licensed persons not to employ disqualified persons.**

A licensed person shall comply with its duty under section 42(6) of the Act (duty of care regarding employment of disqualified persons) to take reasonable care not to employ or continue to employ any person in contravention of a disqualification direction made under that section and shall ensure that its appointed representatives do likewise.

*Note: If a licensed person has any reason to suspect that an employee or potential employee may be subject to a disqualification direction, it may inquire from the Authority whether this is the case.*

*Division B—Notifications*

**110. Clearance events.**

This regulation applies to any event designated as a clearance event in Part I of Schedule 4.

**111. Requirement for notification.**

Subject to regulation 113, notification of a clearance event containing the information specified in Part II of Schedule 4 shall be made, in such form as may be prescribed by the Authority, before such an event occurs.

**112. Clearance procedure: the waiting period and stop notices.**

Upon notification of a clearance event, the Authority shall either—

- (a) inform the licensed person in writing within the waiting period that it has no objection, and the licensed person may allow the event to occur;
- (b) seek further information from the licensed person or from a third party in writing and, in respect of a clearance event designated in paragraph 1 and 2 of Part I of Schedule 4, extend the waiting period, and if deemed necessary re-extend it, for such time as the Authority may reasonably require to obtain and consider that information; or

- (c) issue a stop notice to the licensed person requiring that the event shall not occur.

### **113. Clearance event not in licensed person's control.**

(1) If the occurrence of a clearance event falling within paragraphs 1 and 2 of Part I of Schedule 4 is not in the licensed person's control, the licensed person shall nevertheless take all reasonable steps to prevent the event occurring before the Authority has made a determination, or the waiting period has elapsed.

(2) In respect of a clearance event falling within paragraphs 1 and 2 of Part I of Schedule 4, where the event is occasioned by circumstances beyond the licensed person's control, the licensed person shall notify the Authority, as soon as practicable, either before or after the event occurs.

### **114. Expiry of waiting period.**

In relation to a clearance event falling within paragraphs 1 and 2 of Part I of Schedule 4, if upon the expiry of the waiting period, including any extension the Authority has neither indicated assent nor issued a stop notice, the licensed person may let the event occur.

### **115. Stop notice: effect on licence.**

(1) Upon receipt of a stop notice, the licensed person may require the Authority to treat the notification of the clearance event as if it were an application for licensing on the basis of the circumstances that would prevail if the event were to take place and the provisions of the licensing procedures will then apply.

(2) If the event, not being in the licensed person's control, has occurred before the licensed person has made a determination, a stop notice shall have effect as a notice that the scheme licence will be reconsidered as if an application had been made on the basis of the new circumstances and all of the provisions of the licensing procedures shall apply.

**Note:** *Deliberate breach of a stop notice would bring into question the licensed person's fitness and properness.*

## *Notifications Required to be Made to the Authority*

### **116. Notifiable events.**

A licensed person shall notify the Authority in writing of any event or circumstance designated as a notifiable event in Part II of Schedule 4.

### **117. Form, contents and time limits.**

The notification referred to in regulation 116 shall be made within the time and contain the particulars specified in Part II of Schedule 4 and shall be in such form as may be prescribed by the Authority.

### **118. Annual notification of controllers.**

A licensed person shall, at intervals of no more than one year, notify the Authority in writing of the name of each person who, to the knowledge of the licensed person, is a controller of the licensed person at the date of such notification, specifying to the best of the licensed person's knowledge in relation to each such person—

- (a) what percentage of the shares in the licensed person, or another body corporate of which the licensed person is a subsidiary, he or she holds, directly or indirectly, whether alone or with any associate or associates; and
- (b) what percentage of the voting power he or she is entitled to, directly or indirectly, and whether alone or with any associate or associates, to exercise or control the exercise of, at any general meeting of the licensed person, or another body corporate of which the licensed person is a subsidiary.

**Note:** *Licensed persons should note that this notification shall be made as part of the statement of representation.*

## *Division C—Complaints*

### **119. Complaints procedure: general.**

A licensed person shall operate a complaints procedure to investigate and, where appropriate, provide remedies in relation to complaints.

## **120. Contents of significant complaints procedure.**

In relation to any significant complaint, the procedure described in regulation 119 shall contain at least these provisions—

- (a) the complaint shall be considered by an officer or employee of suitable seniority who was not concerned in the matter or, where this is not possible, by another person of appropriate standing who is not an officer or employee of the licensed person or the appointed representative, and a substantive reply shall be sent promptly;
- (b) where a complainant has received a substantive reply and does not within one month of its being despatched indicate that he or she is not satisfied, the complaint may be treated as settled on the terms of that reply, provided that the reply, included a notification to the complainant that his or her complaint would be so treated in the circumstances;
- (c) if, two months after the complaint has been received it has not been settled to the satisfaction of the complainant, the licensed person shall—
  - (i) give notice to the Authority of the details of the complaint and of the action taken in response to it; and
  - (ii) inform the complainant that the Authority has been so notified and give him or her the date of the notice;
- (d) the first substantive reply to the complaint, unless it offers a settlement reasonably expected to be acceptable to the complainant, shall advise the complainant that he or she has a right to complain directly to the Authority;
- (e) where the complainant, having received a substantive reply as described in paragraph (d), indicates dissatisfaction, the next response shall, unless this has already been done in connection with the complaint in question, advise the complainant that he or she has a right to complain directly to the Authority;

- (f) where the licensed person gives notice to the Authority of a complaint, as described in paragraph (c), the licensed person shall, when the complaint has been settled to the satisfaction of the complainant, give notice to the Authority of the terms of the settlement;
- (g) a full record of each significant complaint and of the action taken in respect to it shall be kept by the licensed person for three years after the date of the last response.

### **121. Returns to Authority.**

A licensed person shall submit to the Authority, as part of its statement of representation, a return of all significant complaints which have been received and those which have been settled during the period covered by that statement or, if there have been none in either category, confirming that fact.

### **122. Co-operation with Authority.**

Without limiting its other obligations under this Part, each licensed person shall co-operate with the Authority in any investigation of any complaint, and in particular, shall, upon request, inform the Authority of any similar complaint within the preceding year from any complainant or of any complaint from the same complainant within that period.

**Explanation:** *In responding to a request from the Authority under this regulation, a licensed person which conducts its business through branches may provide the Authority with information about previous complaints which relate to the experience of the relevant branch rather than to the licensed person's whole business unless, on consideration, the Authority requests wider information.*

### **123. Authority's investigation.**

Where—

- (a) a complaint is referred to the Authority;
- (b) the Authority investigates that complaint; and
- (c) a licensed person shall co-operate with the Authority in its

investigation.

*Division D—Controls and Systems Rules*

**124. Adequacy of controls and systems.**

A licensed person shall, for the purpose of compliance with this Part, ensure that its internal controls and systems are adequate for the size, nature and complexity of its activities.

**125. Proper discharge of duties.**

Systems of control shall be such as to enable the licensed person to discharge properly the duties imposed on it by this Part.

**126. Validity of system.**

No system of control will be treated as established or maintained unless there is kept available an adequate statement, in writing, of the system of control which is in operation for the time being.

**127. Use of Permitted Third Party (PTP).**

Where functions are delegated to a PTP by a licensed person, regulations 124 to 126 apply in relation to controls and systems, as if the functions delegated to a PTP are carried out by the licensed person itself.

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**SCHEDULES.**

**SCHEDULE 1**

*Regulations 2 and 3*

**CIS LICENSED PERSON PRINCIPLES**

*(Issued by the Authority under section 32(1) of the Act)*

*These principles apply to the Authorised Corporate Director of an investment company with variable capital, a unit trust manager of a unit trust scheme, a trustee, depositary and custodian.*

**1. Integrity.**

A licensed person shall observe high standards of integrity and fair dealing.

## **2. Skill, care and diligence.**

A licensed person shall act with due care, skill and diligence.

## **3. Market practice.**

A licensed person shall observe high standards of market conduct. It shall also, to the extent endorsed for the purposes of this principle, comply with any code or standard as in force from time to time and as it applies to the licensed person either according to its terms or by rulings made under it.

## **4. Information about customers.**

A licensed person shall seek from existing and potential CIS customers it advises, any information about their circumstances and investment objectives which might reasonably be expected to be relevant in enabling it to fulfil its responsibilities to them.

## **5. Information for customers.**

A licensed person shall take reasonable steps to give an existing or potential CIS customer it advises, in a comprehensible and timely way, any information needed to enable him or her to make a balanced and informed decision.

A licensed person shall similarly be ready to provide a customer with a full and fair account of the fulfilment of its responsibilities to him or her.

## **6. Conflicts of interest.**

A licensed person shall either avoid any conflict of interest arising or, where conflicts arise, shall ensure fair treatment to all its customers by disclosure, internal rules of confidentiality, declining to act, or otherwise. A licensed person shall not unfairly place its interests above those of its customers and, where a properly informed customer would reasonably expect that the licensed person would place his or her interests above its own, the licensed person shall live up to that expectation.

## **7. Customer assets.**

Where a licensed person has control of or is otherwise responsible for assets belonging to a CIS or CIS customer which it is required to safeguard, it shall arrange proper protection for them, by way of segregation and identification of those assets or otherwise, in accordance with the responsibility it has accepted.

## **8. Financial resources.**

A licensed person shall ensure that it maintains adequate financial resources to

meet its investment business commitments, and to withstand the risks to which its business is subject.

**9. Internal organisation.**

A licensed person shall organise and control its internal affairs in a responsible manner, keeping proper records, and in relation to the employment of its staff and where it is responsible for the conduct of investment business by others, shall have adequate arrangements to ensure that they are suitable, adequately trained and properly supervised and that it has well-defined compliance procedures.

**10. Relations with the Authority.**

Clarity of purpose

A licensed person shall deal with the Authority in an open and cooperative manner, and shall keep the Authority promptly informed of anything concerning the licensed person which might reasonably be expected to be disclosed to it.

Clarity of subject

Avoidance of misleading statements, promises or forecasts

Verification of statements of fact

**SCHEDULE 2**

*Regulations 2 and 6*

**CIS ADVERTISING CODE**

*(Issued under section 34(1) of the Act)*

This code describes the standards set by the Authority for determining whether a CIS advertisement meets the requirements of regulation 6.

Statements of opinion

**GENERAL REQUIREMENTS**

Disclosure of capacity

- 1. To follow the code, a licensed person shall—
- 2.

3. (a) make it plain that the advertisement contains promotional material and has a promotional purpose and shall make the advertisement distinct from any other matter contained in the medium which carries it;
- (b) describe clearly the nature of the CIS investment or the CIS services to which the advertisement relates;
- (c) take all reasonable steps to ensure that any statement, promise or forecast to be included or approved is not misleading in form or context;
- (d) have formed a reasonable belief (on the basis of evidence of which a record is kept or to which access may be obtained)—
- (i) that any statement relevant to the product or services being advertised and purporting to be a statement of fact is true; and
  - (ii) that the statement will remain true during the currency of the advertisement;
- (e) take all reasonable steps to ensure that the person giving any statement of opinion is of that opinion at the time when the advertisement is issued or approved.

If the licensed person or an associate is a market maker in any investment being advertised, state that fact.

If, in relation to the investment or investment services which are the subject of the advertisement, the licensed person has directly or indirectly a material interest (except for an interest arising solely from the mere participation of the licensed person as agent for the customer) or a relationship of any description with another party which may involve a conflict with the licensed person's duty to the customer, state that fact and disclose the nature of the interest or relationship.

**Note:** *An example of a material interest is where a licensed person or an associate has a long or short position in an investment which is not a readily realisable investment and the*

*licensed person is recommending recipients to buy or, as the case may be, sell that investment.*

Promotions  
not  
to be  
disguised

No false  
claims of  
independence

Advertisements not to  
claim  
government,  
etc.,  
approval

No  
suppression  
of required  
statements

Omit  
information

## **GENERAL PROHIBITIONS**

4. To follow the code a licensed person shall not—

No false  
indications  
about scale  
or business

(a) issue an advertisement with the intention of persuading anyone who responds to it to transact or offer to transact business of a kind not described in the advertisement;

Advertisement  
not to include  
inappropriate  
reference to  
the Authority

(b) claim or suggest independence of itself or any of its associates in giving advice, making recommendations or exercising discretion, unless such claim or suggestion may properly be made;

(c) state or imply that the CIS investment or CIS services being advertised or any other matter in the advertisement has been approved by the Authority or any governmental or other public regulatory body unless—

Synopsis or selection

(i) the approval has been given in writing; or

(ii) the advertisement is issued by or on behalf of the Government;

Information about past performance of investments or of an investment manager

(d) disguise the significance of any statement, warning or other matter required by the advertising rules to be included in an advertisement either through relative lack of prominence or by the inclusion of matter likely to detract from it;

(e) omit any matters the omission of which causes the CIS advertisement to be unclear, unfair or misleading;

(f) include any statement indicating the scale of the activities or the extent of the resources of the advertiser which implies that the resources available to support performance of its obligations are greater than they are;

(g) if the advertisement does not relate to regulated business, include any matter referring to the Authority.

## SPECIFIC REQUIREMENTS

5. Where an advertisement contains any of the items listed in the left-hand column below, in order to follow the code a licensed person shall—

(a) state enough of the relevant features to give a fair view of the CIS agreement being advertised, including the financial commitments and risks involved, and state how full details may be obtained;

Comparisons with unregulated collective investment schemes

(b) include information about past performance only if—

Past performance

- (i) it is relevant to the performance of the CIS agreement or CIS investment services or investment management services advertised;
- (ii) it is complete, or is a fair and not misleading representation of the past performance of the CIS investment or investment management services;

Forecasts or illustrations

- (iii) it has not been selected so as to exaggerate (or disguise) the success (or lack of success) of the CIS investment or investment management services over the period to which the information relates;
- (iv) the source of the information is stated and the advertisement contains a warning that the past is not necessarily a guide to future performance;

Information about taxation

- (v) where a standard is used for comparison of performance, the same standard will be applied in relation to subsequent performance comparison; and
- (vi) the period which is selected as illustrating past performance is a period of not less than three years or such other period as the Authority may allow.

A licensed person shall—

- (a) not include any comparison or contrast of the performance or the likely performance of an investment in units or shares in a regulated Collective investment scheme with an investment in an unregulated Collective investment scheme;
- (b) not include any information about past performance of CIS investment services unless the advertisement includes year on year discrete information relating to the performance of the investment during the period of 3 years, or if it has been in existence for less than 3 years, for the period during which it has been in existence, ending three months before the date of issue of the advertisement;
- (c) not include a forecast or illustration of the realisable value of a CIS investment service or an investment product concerned,

except in accordance with the requirements prescribed by the Capital Markets Authority.

**Note:** *It is recommended that disclosure of cost of investment in a collective investment scheme should not be based on forecasts but only on a factual statement of the total expense ratio as established by the most recent audited accounts.*

(d) if any reference is made to taxation—

- (i) include a warning that the levels and bases of, and reliefs from, taxation can change;
- (ii) where a matter is based upon an assumed rate of taxation, state that rate;
- (iii) (a) state that any tax reliefs referred to are those currently available and that their value depends on the individual circumstances of the investor; and  
(b) make it clear whether any tax reliefs (or freedom from taxation) referred to in the advertisement apply directly to the investor, to the provider of the investment or to the fund in which the investor participates or, if such is the case, to more than one of them;
- (iv) state whether the matters referred to are only relevant to a particular class or classes of investor with particular tax liabilities and identify the class or classes and liabilities concerned;
- (v) does not describe the CIS services as being free from any liability to capital gains tax unless equal prominence is given to a statement, if applicable, that the value of the investment is linked to a fund which is liable to that tax; and
- (vi) do not describe the income from the CIS services as being free from any liability to income tax unless equal prominence is given to a statement, if applicable, that the income is payable out of a fund

which is liable to that tax.

Material  
stating or  
implying  
limited  
availability

Testimonials

Comparisons  
or contrasts

Advertisements  
issued by  
appointed  
representatives

### **SPECIFIC REQUIREMENTS**

7. Where an advertisement is of a kind described, or contains any of the items listed in the left-hand column below, in order to follow the code, a licensed person shall not—

Guarantees (a) claim or imply limited availability of CIS services (e.g. limited quantity, limited period of offer, or special terms for a limited period) unless justified;

quote from a testimonial or commendation unless the quotation is—

CIS investment services which can fluctuate in values

Income from CIS investment services

CIS Investment services involving exposure to a foreign currency

Advertising of so-called "High Income" products

- (i) complete, or a fair representation of the whole;
- (ii) accurate and not misleading at the time when the advertisement is issued; and
- (iii) relevant to the CIS investment services or services advertised;

and the author has given his or her consent to the advertisement and, if he or she is an employee, officer or associate of the licensed person, the advertisement says so;

(b) include any comparison or contrast, for example with other investments, expenditure, assets, services or indices, unless it is fair and the licensed person shall not omit factors which are likely to be relevant to an appreciation of the comparison or contrast;

(c) include any matter referring—

- (i) to the Authority, except in relation to the permitted business of a licensed person on whose behalf the appointed representative is acting; or
- (ii) to the fact that the advertiser is connected with a licensed person if the advertisement is not in respect of the permitted business of that licensed person;

or state that the appointed representative is an authorised person;

(d) describe any CIS investment services or investment as guaranteed, unless there is a legally enforceable arrangement with a third party who undertakes to meet in full an investor's claim under the guarantee.

### **RISK WARNINGS**

8. In order to follow the code, a licensed person shall give the following risk warnings, where applicable—

- (a) for CIS investment services which can fluctuate in value, a statement should warn that values may fall as well as rise and that the investor may not get back the amount he or she has invested;
- (b) for CIS investment services described as being likely to yield

a high income or as suitable for an investor particularly seeking income from his or her investment, the investor should be warned, if it is the case, that income from the CIS investment service may fluctuate in value in money terms;

- (c) for a CIS investment services involving exposure to a currency other than that in which acquisitions of the CIS investment services are invited, the investor should be warned that changes in rates of exchange may cause the value of the CIS investment services to go up or down;
- (d) where a licensed person issues or approves a CIS advertisement which offers "high income", it should ensure that—
  - (i) the use of the term "income", either in the name of the product or to describe payments to investors, is not misleading in form or context; if "income" payments to investors constitute a return of capital either in whole or in part, this shall be made clear, a licensed person shall bear in mind what investors are likely to understand by the term; where "income" payments do not represent a distribution of interest, and/or dividend or other earnings, this shall be explained clearly and prominently at an early point in the advertisement;
  - (ii) the advertisement makes clear, if it is the case, the extent to which the forecast rate of "income" will be achieved by foregoing the potential for future capital growth; any claim that the risk of capital depreciation is limited should be balanced by an explanation of any limitation on the potential for capital recovery;
  - (iii) all the risks to an investor's capital, or to maintenance of "income" payments at the advertised rate are fully explained, having regard to the particular nature of the product;
  - (iv) any comparison of the product the subject of the advertisement either directly or indirectly with bank and building society deposits or other investment and deposit-based savings vehicles is not made unless its

Government  
and other  
public  
securities

Charges  
deducted  
from capital

distinguishing features and attendant risks are adequately explained;

- (v) the use, size and prominence afforded to the description of the "income" payments, together with any associated graphics or figures is not such as to distract from the salient features of the product and the nature of the risks involved; in particular, the advertised rate of income shall not be presented in such a way as to imply that it is "guaranteed" or "certain" where this is not the case; and if the relevant risk factors are not placed alongside or immediately after the advertised rate of "income", prominent signposting should be provided indicating where they may be found, and all the risk factors should appear with sufficient prominence relative to other text to ensure that the significance of the risks is not disguised;
- (e) that more than 35% of the property of a regulated Collective Investment Scheme (at the time when the advertisement is prepared for issue) consists, or is likely to consist, of Government and other public securities issued by one issuer, together with the identity of that issuer;
- (f) in relation to units in a regulated Collective Investment Scheme, a statement—
  - (i) explaining that the objective of the scheme is to maximise distributable income, or to place an equal emphasis on the generation of income and on capital growth, and to this end, all or part of the manager's or ACD's periodic charge will be taken out of capital: the likely effect of this should also be explained, in particular how capital may be eroded or future growth constrained; and
  - (ii) where a gross distribution yield is quoted showing the level, or maximum level, of the manager's or ACD's periodic charge which may be charged to capital, explaining that the distributable income is increased by that amount and that the capital will therefore be reduced by a similar amount: reference shall also be made to the fact that when compared with a fund which charges expenses to income, the increase in

income will result in some increased income tax liability for unitholders and shareholders and, where applicable, a reduction in liability for capital gains tax.

### SCCHEDULE 3

*Regulation 90*

### STATEMENT OF REPRESENTATION

The form of the statement is as follows—

#### **Statement of Representation**

For the period \_\_\_\_\_

Name of licensed person \_\_\_\_\_

CMA reference \_\_\_\_\_

For CMA use

Date received \_\_\_\_\_

Checked \_\_\_\_\_

Follow up required \_\_\_\_\_

## **STATEMENT OF REPRESENTATION**

### **NOTES FOR COMPLETION OF THIS STATEMENT**

1. Licensed persons are required to submit a statement of representation twice a year at six monthly intervals for the period since the previous statement (in the case of new grant of their licence, since the date of

grant of their licence). The Authority may determine that a statement of representation should be submitted more frequently where it deems this necessary.

- 1 Business  
2. To reflect the fact that responsibility for compliance is primarily that of the licensed person's board (or equivalent), the answers to the questions shall be approved by the Board (or equivalent). Where, exceptionally, the licensed person considers that full board approval would not be appropriate, it may seek permission from the Authority for statements of representation to be approved by a sub-committee of the Board.
- 3 Compliance  
3. The statement, after approval, shall be signed by both the licensed person's chief executive and compliance officer and submitted to the Authority within a maximum of two months after the end of the reporting period.
- 3A Compliance procedures  
4. Where the answer to a question calls for further details or other information, this shall be submitted on separate typed sheets.
- 3B Compliance monitoring  
5. Words used in the statement have the same meaning as in regulation 2 of these Regulations.

## **STATEMENT OF REPRESENTATION**

### **GUIDANCE NOTES**

- 1.1 Each of the CIS principles shall be considered in relation to the licensed person's business before answering this

question. The Authority needs to be informed of any areas where it is felt that there may have been a departure from the principles and of the action taken to remedy the position.

- 3C Records of compliance
- 3A.2 Where the answer to this question is NO, the details supplied should clearly identify the areas where the procedures are not considered fully effective and the steps taken to remedy the situation.
- 3A.3 If the answer to this question is NO, the instances where the compliance procedures have not been observed shall be identified and details given of the action taken and of the results of such action.
- 4B Customers' assets
- 3B.1 In answering this question, licensed persons shall determine whether their compliance monitoring procedures include as a minimum—
- 5 Notification requirements
- 6 Other regulatory action
- (a) Review of continued adequacy of written procedures;
  - (b) Review of appropriateness of training material so far as it relates to compliance requirements;
  - (c) Test checks on documentation;
  - (d) Review of customer complaints, their follow-up and arrangements for handling complaints;
  - (e) Review of arrangements in respect of CIS customers money and scheme money to ensure that they are in accordance with principle 7 and these Regulations;
  - (f) Review of the records maintained by the firm as required by these Regulations; and
  - (g) Review of the steps taken to ensure that advice to CIS customers and execution of transactions with or for them are in accordance with principles 1 to 6 and these Regulations.

Where the answer to this question is NO, the details supplied should clearly identify the areas where it is considered that monitoring procedures are inadequate and the steps taken to remedy the situation.

- 3C.2 The details to be supplied in answer to this question should include information on occurrences which have resulted in losses to CIS customers or in CIS customers being otherwise disadvantaged.
- 4B.1 In answering questions 4B.1 and 4B.2, firms should have particular regard to the need for adequate systems and controls to be able to carry out reconciliations of customer assets.
- 5.1 Details should be supplied with the statement of representation to fulfil the requirements of regulation 118 (annual notification of controllers).
- 6.1 The Authority expects to be informed by a licensed person where there has been any regulatory action, otherwise than by the Authority, of the nature described in the question either affecting the licensed person or any group company (see regulation 2). A copy of any report or other document relating to such action shall be supplied to the Authority.

## STATEMENT OF REPRESENTATION

To: THE CAPITAL MARKETS AUTHORITY OF UGANDA (C.M.A.)

relating to the affairs of

.....("the licensed person")

1 Business from .....(date) to .....(date) ("the period") YES  NO  If NO, give details

approved by resolution of the board\* of the licensed person on .....(date) YES  NO  If NO, give details

as being accurate in all material aspects to the best of the licensed person's knowledge and belief.

2 Special conditions YES  NO  If NO, give details

\*Signed ..... YES  NO  If NO, give details

3 Compliance Chief Executive YES  NO  If NO, give details  
3A Compliance procedures

.....  
Compliance Officer

Dated ..... YES  NO  If NO, give details of action being taken to comply

YES  NO  If NO, give details

3B Compliance monitoring

YES  NO   
If NO, give details

## STATEMENT OF REPRESENTATION

**The following questions should be answered with a YES or a NO. If a particular question is inapplicable to the licensed person, both "YES " and "NO" should be deleted and the reason for this stated. The guidance notes should be studied before answering the questions.**

YES  NO   
If NO, give details of action still being taken

YES  NO   
If NO, give details of board involvement

3C Records of compliance

YES  NO

\*1.1 Has the licensed person carried on any investment business in the period other than its permitted business as set out in its current business profile?

YES  NO   
If NO, give details

\*1.2 Is the licensed person satisfied that it has conducted its CIS investment business at all times in accordance with the principles?

4 CIS customer money and customers' assets rules

YES  NO   
If NO, give details of action being taken

2.1 Is the licensed person subject to any special condition?

4A CIS customer money

YES  NO   
If NO, give details of breaches

2.2 If YES, has the licensed person complied with such special condition?

3A.1 Does the firm have and make available to employees written procedures incorporating rules of conduct reflecting the Authority's requirements?

YES  NO   
If NO, give details of action being taken

\*3A.2 Does the licensed person have arrangements which it is satisfied are adequate to comply with principle 9 (Internal Organisation) and the regulations as regards its employees?

YES  NO   
If NO, give details of breaches

4C Recommendations

- 3B Compliance monitoring YES  NO
- \*3A.3 Is the licensed person satisfied that its arrangements for ensuring compliance (including complaints procedures) as required by the regulations have been effective throughout the period? YES  NO   
If NO, give details
- \*3B.1 Can the licensed person demonstrate that it carried out regular and adequate monitoring procedures during the period? YES  NO   
If NO, give details
- 5 Notifications requirements
- 3B.2 Is the licensed person satisfied that adequate action has been taken to correct deficiencies? YES  NO   
If NO, give details
- 3B.3 Has the licensed person's board been made aware at regular intervals of compliance monitoring findings? YES  NO   
If NO, give details
- 6 Other regulatory action
- 3C.1 Is the record of occurrences which have, or may have, involved a breach of the rules complete and accurate? YES  NO   
If NO, give details
- \*3C.2 Is there any material or significant matter or trend revealed by such record which should be drawn to the Authority's attention?
- 7 Completeness of information
- 4A.1 Does the licensed person have adequate systems of control to enable it to comply with the CIS customer money regulations? YES  NO   
If NO, give details of enquiries not made
- 4A.2 Was the licensed person in compliance with the CIS customer money regulations at all times during the period? YES  NO   
If NO, give details
- \*4B.1 Has the licensed person adequate systems to enable it to comply with the CIS customers' assets rules, other than the CIS customer money regulations?

- YES  NO   
If NO, give details
- 4B.2 Was the licensed person in compliance with those rules at all times during the period?
- 4C.1 Have the following been performed in the period in the manner and at the times required by the Regulations—
- (a) CIS customer money reconciliations?
  
  - (b) CIS customer title documents, counts and reconciliations?
- 4C.2 Has the Authority been notified of any differences arising out of a reconciliation to which 4C.1 applies which the licensed person has been unable to correct?
- \*5.1 Has the Authority been notified of all notifiable events?
- 5.2 Has any event specified as a clearance event taken place without the prior notification required by the Regulations?
- 6.1 Has the licensed person, or any associate, during the period, and in relation to its permitted business, been the subject of any disciplinary measures or had its affairs investigated by any regulatory body (other than the Authority) in Uganda or overseas?
- 7.1 Is the licensed person satisfied that all appropriate enquiries have been made of all those employees who should, in the opinion of the licensed person, properly be consulted before answering the above questions?
- 7.2 Are there any material or significant matters concerning the licensed person's permitted business or its compliance procedures which have not been disclosed to the Authority in accordance with principle 10 of the CIS Licensed Person Principles?

- 7.3 Are there any matters relating to an earlier statement of representation or qualification in an auditor's report which remain unresolved?
- 8.1 In respect of significant complaints licensed persons are required to provide the statistical information indicated in the accompanying table as at the reporting date.

Statement of Representation

*COMPLAINTS STATISTICS*

*Total Complaints*

*Complaints outstanding*



(b) CIS Advertising

PART II		
NOTIFIABLE EVENTS		
EVENT	Time within which notification is to be given	NOTICE TO THE AUTHORITY Particulars to be given
Division I		
A. CONSTITUTION		
<p>1. Changes made as regards the licensed person in-</p> <p>(a) name;</p> <p>(b) any business name under which it carries on its permitted business;</p> <p>(c) address of its head office or principal place of business;</p> <p>(d) address of its registered office; or</p> <p>(e) address for service of notices or documents, if</p>	<p>Immediately</p> <p>”</p> <p>”</p> <p>”</p> <p>”</p> <p>”</p>	<p>Details of the change including the date such change occurs</p> <p>”</p> <p>”</p> <p>”</p> <p>”</p> <p>”</p>

Notifiable Events		
EVENT	NOTICE TO THE AUTHORITY	
	Time within which notification is to be given	Particulars to be given
<b>B. CONTROL AND MANAGEMENT</b>		
2. When the licensed person becomes a subsidiary of another company.	Not more than 7 days after the event or the date on which the licensed person becomes aware of the event, whichever is the later.	Name of company of which it has become a subsidiary together with the date of such change
3. When, in relation to the licensed person, a person becomes or ceases to be—		
(a) a controller;  <b>Note:</b> <i>Any change which will result in any person becoming or ceasing to be a controller, or where a controller decides to increase his or her holding so that the proportion of the voting rights or of the capital that he or she holds or controls would reach or exceed 20, 33, or 50% or so that the licensed person would become his or her subsidiary is also a clearance event.</i>	Not more than 7 days after the event or the date on which the licensed person becomes aware of the event, whichever is the later	Together with the date of such change, the fact that a person has either - (a) become; or (b) ceased to be a controller and, in the case of a person becoming a controller:  (i) its name; (ii) a description of its principal business; (iii) the names of its directors, partners and managers, if any; (iv) the address of its registered or head office (in the case of a body corporate) or its principal place of business (in the case of a partnership or an unincorporated association) or his or her address (in the case of an individual);

		<p>(v) the percentage of the voting power which it can exercise, or control the exercise of, at any general meeting of the licensed person and, if different, the percentage of the capital which it holds; and</p> <p>(vi) the occurrence of which the licensed person is aware of any of the events set out in paragraphs (b) to (h) of Part II of this Table relating to the controller's directors, partners and managers;</p>
<p>(b) the Chief Executive;</p> <p>Note: <i>Where anyone is to be appointed as chief executive, a clearance event will occur.</i></p>	<p>Not more than 7 days after the event or the date on which the licensed person becomes aware of the event, whichever is the later.</p>	<p>The fact that a person has ceased to be the chief executive of the licensed person and—</p> <p>(i) the date on which he or she ceased to be chief executive; and</p> <p>(ii) the reason(s) for the change.</p>
<p>(c) a director;</p>	<p>”</p>	<p>The reason(s) for, and the date of, change, together with the name of the person concerned</p> <p>”</p>
<p>(d) a manager of the licensed person 's permitted business;</p>	<p>”</p>	<p>”</p>
<p>(e) the compliance officer;</p>	<p>”</p>	<p>The nature and date of change</p>
<p>(f) the finance officer;</p>	<p>”</p>	<p>”</p>
<p>(g) the company secretary or equivalent;</p>	<p>”</p>	<p>”</p>

<p>4. Changes in the entitlement of any person to exercise, or control the exercise of, the voting power at any general meeting of the licensed person or any body corporate of which the licensed person is a subsidiary and, if different, the percentage of capital which it holds, if before or after any such change, that person was a controller.</p> <p><b>Note:</b> <i>This refers to a situation where a person is a controller, and continues to be a controller, but the level of his or her control changes.</i></p> <p><b>Note:</b> <i>Under regulation 118 a licensed person is required to make an annual notification of the controllers of the licensed person.</i></p>	<p>Not more than 7 days after the event or the date on which the licensed person becomes aware of the event, whichever is the later</p>	<p>Details of the change</p>
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**C. STATUS OF PERSONNEL**

<p>5. The dismissal of, or the occurrence of any of the events set out in Division 2 of this Schedule in respect of, any of the following in relation to the licensed person —</p>	<p>Immediately upon the licensed person becoming aware of the event</p>	<p>Date and reason for the dismissal or details of the event Name of person concerned and date and reasons for dismissal or details of the event</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------

C. STATUS OF PERSONNEL

(a) Chief Executive;	Immediately upon the licensed person becoming aware of the event	Date and reason for the dismissal or details of the event
(b) Director;	”	Name of person concerned and date and reasons for dismissal or details of the event
(c) Manager of the licensed person's permitted business;	”	”
(d) Compliance officer; or	”	”
(e) Finance officer	”	”
6. The dismissal of, or the occurrence of any of the events set out in paragraph (a) to (f) of Division 2 of this Schedule in respect of a company representative of the licensed person.	Immediately upon the licensed person becoming aware of the event	Details of the event and the name of the company representative concerned

(c) CIS customer agreement \_\_\_\_\_

(d) Inadequate knowledge of customer \_\_\_\_\_

D. COMPLAINTS		
7. The conclusion of any investigation or adjudication proceedings	Promptly	A statement of the fact
8. (a) Action taken by the licensed person under regulation 120(c) in response to any significant complaint which has not been settled to the complainant's satisfaction two months after the licensed persons receipt of the complaint.	Immediately	Details of the action taken
(b) Notice, under regulation 120(d) of the terms of settlement of a significant complaint (of which notice has been given under regulation 120(c) (i).	Immediately	Statement of the terms of settlement
E. SCHEME ASSETS		
9. (a) When the licensed person has not carried out reconciliations in accordance with regulation 77(a) or, having done so, is unable to correct any differences (other than immaterial differences) pursuant to regulation 77(b).	Immediately	A statement of the fact

(b) When the licensed person intends to change the basis on which it performs reconciliations under regulation 77.	Immediately	A statement of the fact
<b>F. INSIDER DEALING</b>		
10. If a licensed person believes that it has, or may have, effected a transaction falling within regulation 24.	Immediately	A statement of the fact and the reason and circumstances of the events
<b>G. FAILURE TO PROCURE ISSUES OF UNITS OR SHARES</b>		
11. A manager or ACD fails to procure the creation of sufficient units or shares in response to an obligation to sell under Collective Investments (Unit Trusts) Regulations 2003 and Collective Investments (Open Ended Investment Companies) Regulations, 2003.	Immediately upon the trustee or depository becoming aware of the circumstances	A statement of the reason for and circumstances of the event, together with details of corrective action taken.
<b>H. SHORT SELLING</b>		
12. If a licensed person believes that it has, or may have, effected a transaction falling within regulation 72 of the Collective Investments (Unit Trusts) Regulations, 2003 and regulation 67 of the Collective Investments (Open Ended Investment Companies) Regulations, 2003.	Immediately	A statement of the fact and the reasons for and circumstances of the events

DIVISION 2

SPECIFIED EVENTS CONCERNING STATUS OF PERSONNEL

The following are the events referred to in paragraphs 5 and 6 of Division I of this Schedule—

- (a) a change of name;
- (b) the bringing of a prosecution for, or a conviction of, any offence involving fraud or other dishonesty;
- (c) the bringing of a prosecution for, or a conviction of, any offence under legislation relating to banking, building societies, companies, consumer credit, credit unions, friendly societies, industrial and provident societies, insolvency, insurance and other financial services;
- (d) the presentation of a petition for a bankruptcy order or an award of sequestration;
- (e) the imposition of disciplinary measures or sanctions by any regulatory authority in relation to the individual's professional or business activities; and
- (f) the making of an order by a court disqualifying that individual from serving as director of a company or from being concerned with the management of a company.

- (e) Inadequate / misleading CIS  
product disclosure \_\_\_\_\_
- (f) CIS suitability \_\_\_\_\_
- (g) Unreasonable sales conduct \_\_\_\_\_
- (h) Best execution \_\_\_\_\_
- (i) Remuneration / charges \_\_\_\_\_
- (j) Churning \_\_\_\_\_
- (k) Conflicts of interest \_\_\_\_\_

(l) Complaints relating to records/ documents	_____	_____	_____	_____	_____
(m) CIS customer money/Customer assets	_____	_____	_____	_____	_____
(n) Unit trust / OEIC Regulations	_____	_____	_____	_____	_____
(o) Other conduct of business rule breaches	_____	_____	_____	_____	_____
(p) Dispute about instructions	_____	_____	_____	_____	_____
(q) Poor administration	_____	_____	_____	_____	_____
(r) Poor investment management	_____	_____	_____	_____	_____
(s) General complaints	_____	_____	_____	_____	_____

**Note**

1. *Where a complainant relates to more than one category, the most appropriate single category should be selected.*
2. *"Settled" means settled to the satisfaction of the complainant.*

**SCHEDULE 4**

*Regulations 2, 27, 110, 111, 112, 113, 114, 116 and 117*

**NOTIFICATIONS**

Notifications

**SCHEDULE 5**

*Regulation 27*

## REPORTING TRANSACTIONS

Transactions Effected Outside the Regulated Market

To: TRUSTEE/ CUSTODIAN/ DEPOSITARY

Trading Slip No.		Contract No.	
Trading Date		Order No.	
Settlement Date		Order Ref.	
Instructing Party		Name of Trustee/ Custodian/Depositary	

BY ORDER OF AND FOR THE ACCOUNT OF:

(a) Name of the Operator .....

SECURITY				
No. of shares	Price	Consideration	(In case of purchase,) amount received	(In case of sale,) net amount payable
DEDUCTIONS			Payment Cheque No.	
Commission			Total Amount in words:	
CMA Commission				
USE Commission				
Compensation				
Total Deductions				

(b) Date and time of the transaction of the Transaction .....

(c) Parties involved in the transaction.....

(d) Nature of Securities invested.....

(e) Number of Securities/ Assets bought or sold .....

(f) Price paid or received .....

(g) Any other information relating to the transaction.....

Signed ..... Fund Manager/ ACD

..... Compliance Officer

Date: .....

**Note:** *The report should be made not later than the end of business on the day following the day on which the transaction was effected.*

**SCHEDULE 6  
CONTRACT NOTE**

*Regulation 31(4)*

NAME OF SCHEME\* .....

\_\_\_\_\_  
Client

\_\_\_\_\_  
Broker

\_\_\_\_\_  
*\* The Scheme must be licensed by the Capital Markets Authority*

**Cross References**

The Collective Investment Schemes (Open-Ended Investment Companies) Regulations, 2003. S.I. No. 101 of 2003.