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**THE COLLECTIVE INVESTMENT SCHEMES (FINANCIAL AND ACCOUNTING) REGULATIONS**

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**The Collective Investment Schemes (Financial and Accounting)  
Regulations 2004**

(Under section 30 and 31 of the Collective Investment Schemes Act 2003;  
Statute No. .... of .....) )

In exercise of the powers conferred on the Capital Markets Authority (“Authority”) by sections 30 and 31 of the Collective Investment Schemes Act 2003 (“Act”), these Regulations are made this \_\_\_\_\_ day of \_\_\_\_\_ 2004.

Reg	<b>PART 1 - PRELIMINARY</b>	<b>Marginal notes</b>
1.	These regulations may be cited as the Collective Investment Schemes (Financial and Accounting) Regulations 2004 and shall come into force on .....	Citation and commencement
2	1) In these regulations, unless the context otherwise requires, -  “Act” means The Collective Investment Schemes Act of 2003  “Permitted Third Party” or PTP means a person whom a Trustee or Depositary or Operator reasonably believes to be -  (a) a Licensed person; or  (b) an Overseas Person	Interpretation
3	2) In these regulations, any term defined in the Act shall have the meaning assigned to it by the Act.	
3	These regulations shall apply <b>only</b> to an operator <b>ie the Unit Trust Manager and</b> the authorized corporate director (ACD) of a collective investment scheme <del>hereinafter sometimes referred to as ‘licensed person’.</del> <i>(Note: cannot use this term in this way: ‘licensed person’ defined in Act as ACD, operator, trustee, depositary and ICVC.)</i>	Application
<b>PART 2 – FINANCIAL RESOURCES REQUIREMENTS</b>		
4	An operator <del>and an ACD</del> shall not be licensed or allowed to continue to operate unless at the time of licensing and at all times thereafter, they meet the financial resources requirements prescribed under these Regulations.	Obligations of the operator and ACD
5	An <b>operator</b> <del>licensed person</del> must ensure that they maintain at all times, a minimum net capital of Uganda Shillings Two Hundred Million, determined in accordance with Schedule 1.	Net capital requirement

- 6 1) **An operator** ~~licensed person~~ must ensure that they maintain at all times assets in a liquid form in Uganda that exceed the minimum net capital requirement in Regulation 5. Liquid assets requirement
- 2) Assets in liquid form shall be determined in accordance with Schedule 1.
- 7 An **operator** ~~licensed person~~ shall be required to invest a minimum of Uganda Shillings One Hundred and Fifty Million of its own funds in each scheme it sponsors, provided that this amount may be reduced by 10% for every Uganda Shillings One Hundred and Fifty Million invested by investors in the scheme, which investors shall be independent from the ~~licensed person~~ operator. **Where such scheme is an umbrella scheme, this requirement applies to the whole scheme and not to each sub-fund.** Requirement to invest in schemes
- 8 1) The Authority may, for justifiable cause, exempt **an operator** ~~licensed person~~ from any or all the requirements of this part and prescribe other capital requirements for such licensed person. Exemptions
- 2) The Authority may, for justifiable cause exempt **an operator** ~~licensed person~~ from the requirements of this part for such period not exceeding six months, and upon such conditions as may be prescribed in each case.

### PART 3 – ACCOUNTING RECORDS

- 9 1) An **operator** ~~licensed person~~ must ensure that it maintains adequate accounting records and must prepare and submit such reports as are required by the Authority, in a timely manner. Records and reporting
- 2) An **operator's** ~~licensed persons~~ records must: State of records
- a) Be kept in English;
- b) Be up to date and must disclose, with reasonable accuracy at any time, the licensed persons financial position at that time;
- c) Enable the **operator** ~~licensed person~~ to demonstrate its continuing compliance with the financial resources requirements of these regulations;
- d) Provide the information:
- i) Which the **operator** ~~licensed person~~ needs to prepare such as financial statements and periodical reports as may be required by the Authority; and
- ii) Which the **operator** ~~licensed person's~~ auditor needs in order to form an opinion on any statements of the **operator** ~~licensed~~

~~person~~ on which the auditor is required to report.

- |    |  |                                   |
|----|--|-----------------------------------|
| 10 | An <b>operator licensed person</b> must ensure that proper accounting records are kept to show and explain the <b>operator's licensed person's</b> own account transactions and distinguishing between trading book transactions and non-trading book transactions.  | Licensed persons own transactions |
| 11 | An <b>operator licensed person</b> must ensure that proper accounting records are kept which:<br><br>a) Record all purchases and sales of <del>customer's</del> assets effected by the <b>operator licensed person</b> ;<br><br>b) Record all payments of money belonging to <b>CIS and CIS</b> customers and receipts which arise from transactions effected by the <b>operator licensed person</b> ;<br><br>c) In relation to <b>CIS and CIS customer client</b> money, have regard to the requirements of the <b>CIS customer</b> money requirements under the Collective Investment Schemes (Conduct of Business and Miscellaneous Provision) Regulations of 2004<br><br>d) Disclose the assets and liabilities of an <b>operator's licensed person's</b> customers individually and collectively, to the extent that they are managed by the <b>operator licensed person</b> ;<br><br>e) Record all <b>CIS or CIS Customer's</b> assets (including customer's investments) in the possession of the <b>operator licensed persons</b> or of another person who is holding such assets for, or to the order of the <b>operator licensed person</b> , showing the location of the assets, their beneficial owner and the extent to which they are subject to any charge of which the <b>operator licensed persons</b> has been notified. | Customer accounting records       |
| 12 | 1) All accounting records must be retained for a minimum period of Seven years.<br><br>2) During the first three years, these records must be kept either at a place where the <b>operator licensed person</b> carries on business or in such a manner that they can be produced at such a place within 24 hours of their being requested.   | Retention of records              |

#### PART 4 – FINANCIAL RETURNS

- |    |   |                                       |
|----|---|---------------------------------------|
| 13 | An <b>operator licensed person</b> must prepare and submit to the Authority:<br><br>a) Not later than 90 days after the close of its financial year, a copy of its annual financial statements together with financial statements of every portfolio managed under its <b>Collective Investment Schemes</b> . | Annual, quarterly and monthly returns |
|----|---|---------------------------------------|

- b) The annual financial statements of the **operator** ~~licensed person~~ shall be accompanied by a report of the auditors specifying the matters prescribed under Schedule 2 hereto.
- c) Not later than 30 days after the relevant quarter, quarterly financial statements together with the following statements;
  - (i) financial statements of every portfolio managed under its **Schemes**, and
  - (ii) a report reviewing the investment activity and performance of the investment portfolios under the scheme since the last report date and containing proposals for the investment of the Schemes ~~fund~~ during the period
  - (iii) **operator's** ~~licensed person's~~ own account transactions and distinguishing between trading book transactions and non-trading book transactions
- d) Not later than 14 days after the end of the relevant month, monthly capital position statement containing the information prescribed under schedule 1
- e) On or before a date specified by the Authority, such further information and explanations in connection with the financial referred in a) to c) above and any other statements as the Authority may request.

- 14. The period covered by: Period of returns
  - a) Monthly financial returns shall not exceed one calendar month;
  - b) Quarterly financial returns shall not exceed three months;
  - c) Annual financial returns may not exceed twelve months, without the prior written consent of the Authority.
- 15. All **operators** ~~licensed persons~~ shall have their financial years running for the twelve-month period ending 31<sup>st</sup> December of each year. Licensed persons financial year
- 16. All the required financial statements must be prepared in accordance with International Financial Reporting Standards. International financial reporting standards
- 17. Investments other than investment in a subsidiary and related companies shall be included in the balance sheet at the lower of either the cost, the market value or the Director's estimates. Value of investments in subsidiaries.
- 18. Financial statements shall not be misleading as a result of the presentation, inclusion or omission of any material item. Statement not to be misleading

## PART V – CONTROLS AND SYSTEMS REQUIREMENTS

- |     |   |                                  |
|-----|---|----------------------------------|
| 19. | An <b>operator</b> <del>licensed person</del> shall, ensure that its internal controls and systems are adequate for its size, nature and complexity of its activities.  | Adequacy of controls and systems |
| 20. | Systems of control must be such as to enable the <b>operator</b> <del>licensed person</del> to properly discharge the duties imposed on it by the regulations in this Part.   | Proper discharge of duties       |
| 21. | 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 in operation for the time being.                                     | Validity of system               |
| 22. | Where functions are delegated to a permitted third party, regulations 19 to 21 shall apply as if the functions delegated to the permitted third party are carried out by the <b>operator</b> <del>licensed person</del> itself. | Use of permitted third parties   |

## PART VI – AUDIT REQUIREMENTS

- |     |  |                         |
|-----|--|-------------------------|
| 23. | (1) An <b>operator</b> <del>licensed person</del> shall make available to its auditor, the information and explanations needed to discharge his responsibilities as required by the Authority.   | Audit arrangements      |
|     | (2) The auditor shall be a member of and holder of a valid practicing certificate issued by the Institute of Certified Public Accountants of Uganda  |                         |
| 24. | <u>An operator licensed person</u> shall require its auditor to report to the Authority whether the audit has been conducted in accordance with such statements of or other requirements in relation to auditing standards as are applicable and whether, in the auditor's opinion:<br><br>a) The annual financial statements give a true and fair view of the state of affairs of the licensed persons and of its income and expenditure position;<br><br>b) The annual statements have been properly prepared in accordance with the financial returns requirements in these regulations;<br><br>c) The <del>operator licensed person</del> 's financial resources requirements for the forthcoming year have been properly calculated in accordance with the financial resources requirements;<br><br>d) Proper accounting records have been kept and adequate systems for their control have been maintained, as required by the Accounting records requirements, the controls and systems | Content of audit report |

requirements and the customer assets requirements during the period covered by the Annual statements.

- f) i) Reconciliations of ~~the~~ customer's assets have been properly performed in accordance with the regulations during the period covered by the annual financial statements; or,
- ii) Based on review procedures performed, nothing has come to the auditor's attention that causes the auditor to believe that the ~~operator licensed person~~ held ~~client money~~ CIS or CIS customer's assets during the period covered by the annual financial statements.
- g) The ~~licensed person~~operator was in compliance with the customer asset requirements as specified in the Collective Investments ~~Interments~~ (Note: like this one!) Schemes (Conduct of Business and Miscellaneous Provision) regulations of 2004
- h) All information and explanations necessary for the purpose of the audit have been obtained.

- 25. 1) If the Authority so requires, ~~an operator licensed person~~ shall, at its own expense, appoint a second auditor to examine the ~~operators' licensed persons'~~ financial statements and any other information reported on or verified by the ~~operators' licensed persons'~~ auditor, and report to the Authority.
- 2) Such auditor shall have the same facilities, rights, duties and powers as the auditor to the ~~auditor of the operator licensed person~~.

Second audit

#### PART VII – NOTIFICATION EVENTS

- 26 1) ~~A~~An operator licensed person shall be obliged to give written notice to the Authority of the occurrence of certain events or circumstances designated as notification events under Schedule 3.
- 2) The notification referred to in regulation 26(1) above shall be made within the time specified under the Schedule and shall contain the particulars and information as may be prescribed by the Authority.

Obligation to notify the Authority in certain cases

## Schedule 1

### CAPITAL REQUIREMENTS

The capital to be maintained by **an operator** ~~licensed person~~ shall be calculated as follows:

1. Net Capital

Means the shareholders' funds or the proprietors' capital investment for carrying out the business of the licensed person and subordinated loans accepted for the purpose by the Authority less—

  - a) Non-current assets and pre-paid expenses;
  - b) Unsecured loans and advances included under current assets;
  - c) Amounts due from a director or associate included under current assets;
  - d) Excess of the book value of securities carried in the licensed persons own account over market value; and
  - e) Deficits in clients accounts, less any provisions for bad or doubtful debts already made, the amount being computed in such detail as is satisfactory to the Authority.
2. Eligible capital shall consist of:
  - a) Paid up share capital
  - b) Non-redeemable preference shares (not redeemable within a period of one year and not redeemable at the option of the holder)
  - c) Share premium account
  - d) Non-distributable and audited reserves
  - e) Retained income (if audited 100% may be included otherwise include 50%)
  - f) Loans (only if properly subordinated in favor of the licensed person)
  - g) Guarantees not being from a connected person and only if exercisable on demand by the manager
  - h) **Total**
3. Less adjustment for non-liquid assets consisting of-
  - a) All liabilities including loans not included under 2 (f)
  - b) Contingent liabilities
  - c) Debtors and other current assets which are not convertible into cash within 14 business days
  - d) Guarantees provided by the licensed person
  - e) Amount of investment in other business
  - f) **Total**
4. Adjusted liquid capital 2(h) minus 3 (f)
5. Less required capital to be maintained which consists of-
  - a) Basic capital, which must be the greater of an amount of Ushs. Two Hundred million or a sum equivalent to 13 weeks of fixed expenditure for



- the whole business of the licensed person or such other amount as the Authority may determine in a particular case, plus,
- b) Own funds of Ushs. One hundred and fifty million to be invested by the licensed persons in each portfolio administered by it, plus
  - c) Position risk capital of a sum equivalent to the percentage of the amount paid for units in a portfolio
  - d) **Total**
6. Liquid resources 4 minus 5(d)

6. For purposes of computing fixed costs under 4(a) the following should be taken into consideration-

<b>Expense category</b>	<b>Treat as fixed cost</b>	<b>Treat as trading cost and non-cash item</b>	<b>Expenses per income statement</b>
Accounting, secretarial and other services	X		
Auditor's remuneration	X		
Depreciation		X (a)	
Insurance	X		
Interest paid other than to directors banks overdraft	X	X (f)	
Other finance	X	X (f)	
Charges and fees	X	X (f)	
Motor vehicle expenses	X		
Net loss on realization of fixed assets		X (a)	
Office rental	X		
Machine and other leasing charges	X		
Printing and stationary	X		
Salaries and wages	X		
Telephone, telex and postages	X		
Other expenses	X	X (d) + (g)	
Salaries and directors fees	X	X (e)	
Interest	X	X (e)	

**Note:**

In determining fixed cost amounts, the following principles must be applied:

- a) Depreciation and profits or losses on sales of fixed assets are non-cash items and must be taken into account.
  - b) Charges relating to active trading must be excluded. Fixed charges must be included.
  - c) Non-contractual payments by way of profit shares or performance related bonuses must be excluded.
  - d) Exceptional or extraordinary items may be excluded.
  - e) Payments to directors must only be included to the extent that they are made irrespective of profitability.
  - f) Interest paid to counter parties which is trade related may be excluded.
  - g) Loss arising from conversation of foreign currency balances may be excluded
7. The 13 weeks fixed expenditure must be calculated as the previous financial year's fixed expenditure divided by 4 or if no financial year is completed, this amount must be budgeted for to the satisfaction of the Authority.
  8. The Authority may, where it has reason to believe that the size of the operations of the licensed person has been or is likely to be expanded during any financial period, call upon the licensed person to submit a budget based on the expanded operations. Where a licensed person has reasons to believe that its operations in any financial period will decline from that of the previous year, it may submit a revised budget for approval.
  9. The calculation of the capital position of the licensed person must be submitted to the Authority as at the last business day of each calendar month, within 14 days after the end of such calendar month.

## Schedule 2

### AUDITOR'S REPORT

An auditor's report submitted to the Authority shall state whether in the Auditor's opinion:

- a) The annual financial statements submitted to the Authority together with the report give a true and fair view of the state of affairs of the operator-licensed person;
- b) The annual financial statements have been prepared in accordance with International Financial Reporting Standards where this is required in Uganda;
- c) The annual financial statements have been prepared in accordance with these regulations;
- d) That the financial statements have been properly calculated and exceed the requirements stipulated under these regulations;
- e) That proper accounting records have been kept and adequate systems for their control have been maintained in accordance with the Collective Investment Schemes (Conduct of Business and Miscellaneous Provisions) Regulations of **2004** during the relevant period.
- f) The reconciliation of customer assets have been properly performed in accordance with the Collective Investment Schemes (Conduct of Business and Miscellaneous Provisions) Regulations of **2004**.
- g) That based on review procedures performed, nothing has come to the auditor's attention that leads the auditor to believe that the operator-licensed person held client-money-CIS or CIS customer's assets during the period covered under review.
- h) That all information and explanations necessary for the purpose of the audit have been obtained.

### Schedule 3

#### NOTIFICATION EVENTS

For which written notice is required to be given to the Authority

	Event	Time within which notice should be given	Particulars to be included in the notice
1.	The occurrence of any of the following in relation to the <del>operator licensed person</del> 's auditor:		
a)	Appointment	Immediately	The fact that the event has occurred.
b)	A decision to secure a change	Immediately	The fact that the event has occurred and reasons for it.
c)	Resignation, removal or non-reappointment	Immediately	The fact that the event has occurred and reasons for it.
d)	The expiry of a period of two weeks without an auditor in office	Immediately	The fact that the event has occurred and reasons for it.
2.	When the financial resources of the <del>operator licensed person</del> do not exceed its financial resources requirements.	Immediately	A statement that its financial resources do not exceed its financial resources requirements and a description of the steps which it is taking, or has taken to remedy the position.
3.	When the <del>operator licensed person</del> is not able to:		
a)	Submit an annual or quarterly financial return or a statement of representation by the due date;	Immediately	An explanation why the return or statement will not be submitted by the due date and when it will be submitted.
b)	Comply with, or demonstrate compliance with the requirements relating to financial returns, financial resources and accounting records.	Immediately	The fact that the event has occurred and reasons for it.
c)	Make any payment to an approved stock exchange or recognized clearinghouse or make any other significant payment by the due date.	Immediately	The fact that the event has occurred and reasons for it.
4.	When in the case of an operator:		
	Change of a controlling	Immediately	The fact that the event has

	shareholder		occurred and reasons for it.
	A change in director or key officer	Immediately	The fact that the event has occurred and reasons for it.
	Disciplinary action against a controlling shareholder by a financial regulator in Uganda or abroad	Immediately	The fact that the event has occurred and reasons for it.
	Bankruptcy of a controlling shareholder	Immediately	The fact that the event has occurred and reasons for it.
	Bankruptcy of the entity	Immediately	The fact that the event has occurred and reasons for it.
	Civil proceedings are brought against the firm	Immediately	The fact that the event has occurred and reasons for it.
	Action is brought against the firm for damages	Immediately	The fact that the event has occurred and reasons for it.
	Prosecution of the firm or of its directors or key officers for any offence relating to fraud or dishonesty	Immediately	The fact that the event has occurred and reasons for it.

**LEO KIBIRANGO**  
**Chairman Capital Markets Authority**