

**CHAPTER 64**

**THE CAPITAL MARKETS AUTHORITY ACT**

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## CHAPTER 64

### THE CAPITAL MARKETS AUTHORITY ACT

*Commencement:* 24 May, 1996 (Part I & II)  
and 26 July, 1996

**An Act to provide for the establishment of the Capital Markets Authority for the purpose of promoting and facilitating the development of an orderly, fair and efficient capital markets industry in Uganda; to provide for stock exchanges, stockbrokers and other persons dealing in securities; to provide for certain offences relating to trading in securities and for related matters.**

#### PART I—PRELIMINARY

##### 1. Interpretation

In this Act, unless the context otherwise requires—

“accountant” means a person enrolled as a member of the Institute of Certified Public Accountants of Uganda in accordance with the Accountants Act;

“agent”, in relation to a broker or dealer, includes a person who is, or has at any time been, a banker of the broker or the dealer;

“application duly made” means an application for a licence or approval under this Act in relation to which all documents and information required by this Act to be provided in support of the application and any further information required by the Authority have been provided by the applicant to the Authority;

“approved person” means a regulated person and includes a person authorised by the Authority to carry out any activity under this Act or any other Act for whose administration the Authority is wholly or partly responsible;

“approved stock exchange” means a securities exchange approved by the Authority under section 40;

“arbitrage” means profiting from differences in price of the same security traded on two or more markets;

“auditor” means a company auditor qualified as such under the Companies Act;

- “authorised person” means a person authorised by the Authority to carry on any activity under this Act;
- “authorised registrar” means a company registrar engaged in the business of keeping of registers of members, and shareholders, debenture holders or unit holders for public companies or collective investment schemes which are its clients and performing other related functions for them;
- “Authority” means the Capital Markets Authority established by section 4;
- “beneficial owner” includes a natural person who is, alone or with an associate, the ultimate owner or controller of a legal person or arrangement or, if there is no legal person or arrangement, the person on whose behalf a transaction is being conducted;
- “body corporate” includes a company incorporated or registered under the Companies Act or any body corporate formed and registered under any other law in Uganda or any other jurisdiction;
- “book” includes any register, document or other record of information and any account or accounting record however compiled, recorded or stored, whether in written or printed form or microfilm by electronic process or otherwise;
- “broker” means a person who is—
- (a) a director of a member company; or
  - (b) a partner of a member firm;
- “broker or dealer’s representative” means a person, in the direct employment of, or acting for, or by arrangement with, a broker or dealer, who performs for that broker or dealer any of the functions of a broker or dealer other than work ordinarily performed by accountants, clerks or cashiers, whether his or her remuneration is by way of salary, wages, commission or otherwise, and where the broker or dealer is a body corporate, includes any director or officer of the body corporate who performs for the body corporate any of those functions;
- “capital markets” means a market where funds are raised from individual and institutional investors by companies and governments through sale of shares or issue of debt to fund the activities of the companies or governments;
- “Chief Executive” means the Chief Executive Officer of the Authority appointed under section 9;
- “collective investment scheme” has the same meaning as in the Collective Investment Schemes Act;



“commodities exchange” means a market exchange or a place where commodities and derivative products are offered for sale, purchase or exchange; and includes any clearing or settlement or transfer services connected with the transaction;

“company” means a company registered under the Companies Act or an existing company;

“Compensation Fund” means the Investor Compensation Fund established by section 90;

“controller” means an accountant who has responsibility for all accounting related activities within a firm or organisation;

“council”, in relation to a stock exchange, means the persons for the time being in whom the management of the stock exchange is vested;

“court” means the court having jurisdiction under this Act;

“credit rating agency” means an organisation which provides the service of evaluating the relative credit worthiness of issuers of securities and assigning ratings to those securities;

“currency point” has the value assigned to it in Schedule 1 to this Act;

“custodian”, means a financial institution or body corporate licensed or approved under this Act or the Collective Investment Schemes Act whose business includes taking responsibility for the safe custody of the cash, funds, securities, financial instruments, documents of title or assets of scheme funds or investors and performing related services;

“dealer” means a person who carries on a business of dealing in securities on that person’s own account;

“dealing in securities” means, whether as principal or agent, making or offering to make with any person, or inducing or attempting to induce any person, to enter into or to offer to enter into—

- (a) any agreement for or with a view to acquiring, disposing of, subscribing for or underwriting securities; or
- (b) any agreement the purpose or intended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the price of securities;

“depository” in relation to an investment company with variable capital, means the person with whom the property of the collective investment scheme is entrusted for safe keeping;

- “derivative” means a standardised type of securities or financial instrument which derives its value from the value of the underlying assets, indices or interest rates;
- “director” has the same meaning as assigned to it in the Companies Act;
- “executive officer”, in relation to a body corporate, means any person by whatever name called who is concerned or takes part in the management of the body corporate whether or not he or she is a director of the body corporate;
- “financial instrument” includes securities, mortgage contracts, property contracts, pension contracts, insurance contracts, leasehold contracts, certificates of interest and any variations or derivatives;
- “foreign regulatory authority” means a foreign authority which exercises regulatory functions corresponding to the functions of the Authority under a securities or other law or any person outside Uganda exercising such regulatory functions;
- “fund manager” means a body corporate approved by the Authority which, under a contract or arrangement with a client, undertakes on behalf of a client whether on a discretionary authority granted by the client or otherwise, the management of a portfolio of securities for the purpose of investment or management of the assets of a collective investment scheme, or management of the portfolio of a registered venture capital fund;
- “General Fund” means the General Fund established under section 10;
- “governing council”, in relation to a stock exchange, means the persons for the time being in whom the governance of the securities exchange is vested;
- “investment adviser” means a body corporate—
- (a) that carries on a business of advising other persons on securities;
  - (b) that as part of a regular business, issues or publishes, analyses or reports on securities; but does not include a person who is the proprietor of a newspaper where—
    - (i) in so far as the newspaper is distributed generally to the public, it is distributed only to subscribers to, and purchasers of, the newspaper for value;
    - (ii) the advice is given or the analysis or reports are issued or published only through that newspaper;

- (iii) that person receives no commission or other consideration for giving advice or for issuing or publishing the analyses or reports; and
- (iv) the advice is given and the analyses and reports are issued or published solely as incidental to the conduct of that person's business as a newspaper proprietor; or

(c) such other persons as the Authority may prescribe;

“investment house” means a non-deposit taking institution licensed by

the Authority to advise on offers of securities to the public or a section of the public, takeovers, mergers, acquisitions, corporate restructuring involving companies listed or quoted on a securities exchange, privatisation of companies listed or to be listed on a securities exchange or underwriting of securities issued or to be issued to the public, and to engage in the business of a stockbroker or dealer;

“investment representative” means a person in the direct employment

of, or acting for or by arrangement with, an investment adviser, who performs for the investment adviser any of the functions of an investment adviser, other than work ordinarily performed by accountants, clerks or cashiers, whether his or her remuneration is by way of salary, wages, commission or otherwise and includes any director or officer of a body corporate who performs for that body corporate any of those functions;

“key person” means any current or former controller, beneficial owner, director, manager, employee or associate of an approved person, and includes an agent;

“licence” means a licence granted under this Act;

“licensed person” means an individual or body corporate licensed by the Authority under this Act;

“listing rules”, in relation to an approved stock exchange, means the rules governing or relating to—

- (a) the admission to the official list of the securities exchange of securities issued by companies or other bodies corporate, governments or other persons for the purpose of their quotation on the stock exchange, or for their removal from the official list and for other related purposes; or
- (b) the activities or conduct of companies or other bodies corporate, governments, and other persons, who are admitted to that list;

whether those rules—

- (i) are made by the securities exchange or are contained in any of the constituent documents of the stock exchange; or
- (ii) are made by another person and adopted by the stock exchange;

“market adviser” means a person licensed by the Authority under this Act to conduct the functions of a market adviser under the rules of a securities exchange;

“material” in relation to the definition of material information and the effect of information on the price or value of securities, is information that would, or would be likely, to influence persons who commonly invest in securities in deciding whether or not to buy or sell those securities;

“material information” in relation to an offer of securities to the public or an issuer of such securities is information that—

- (a) a reasonable person would expect, if it were generally available to the market, to have a material effect on the price or value of listed securities of the issuer; and
- (b) relates to particular securities, a particular issuer or issuers of securities to the public, rather than securities generally or issuers generally;

“member company” means a company which carries on a business of dealing in securities and is recognised as a dealing member by a stock exchange;

“member firm” means a partnership which carries on a business of dealing in securities and is recognised as a dealing member by a stock exchange;

“Minister” means the Minister responsible for finance;

“money laundering” means the process of turning illegitimately obtained property into seemingly legitimate property and it includes concealing or disguising the nature, source, location, disposition or movement of the proceeds of crime and any activity which constitutes a crime under section 119 of the Anti-Money Laundering Act;

“nominee” means a person who, in exercising a right in relation to a security, is entitled to exercise that right only in accordance with instructions given to that person either directly or indirectly or through an agency of one or more persons, and a person is the

nominee of another person where he is entitled to exercise such a right only in accordance with instructions given by that person;

“offer” includes an invitation and any proposal to make an invitation to make an offer;

“officer” means an officer of the Authority and includes a member of the Authority’s staff or an agent of the Authority;

“prescribed” means prescribed by regulations made under section 149;

“prescribed interest” means any right to participate, or any interest whether enforceable or not and whether actual, prospective or contingent—

(a) in any profits, assets or realisation of any financial or business undertaking or scheme whether in Uganda or elsewhere;

(b) in any enterprise, whether in Uganda or elsewhere, in relation to which the holder of the right or interest is led to expect profits, rent or interest from the efforts of the promoter of the enterprise or a third party; or

(c) in any investment contract, whether or not the right or interest is evidenced by a formal document and whether or not the right or interest relates to a physical asset; but it does not include—

(i) any share in or debenture of a body corporate;

(ii) any interest in or arising out of a policy of life insurance;

(iii) an interest in a partnership agreement, unless the agreement or proposed agreement

(A) relates to an undertaking, scheme, enterprise or investment contract promoted by or on behalf of a person whose ordinary business is or includes the promotion of similar undertakings, schemes, enterprises or investment contracts, whether or not that person is, or is to become, a party to the agreement or proposed agreement;

(B) is or includes the promotion of similar undertakings, schemes, enterprises or investment contracts, whether or not that person is, or is to become, a party to the agreement or proposed agreement; or

- (C) is or would be an agreement, within a class of agreements, prescribed by the regulations for the purposes of this paragraph; or
- (d) a right of interest, or a right of interest included in a class or kind of rights or interests, declared by regulations to be an exempt right or interest or a class or kind of exempt rights or interests;

“registered venture capital fund” means a company approved by the Authority and incorporated for purposes of providing risk capital to businesses in Uganda with high growth potential, whereby not less than eighty percent of the funds so invested consist of equity or quasi-equity investment in eligible enterprises;

“Registrar of Companies” means the Registrar of Companies under the Companies Act;

“regulated person” means any person who has been granted a licence under this Act, or under the Collective Investment Schemes Act, the Securities Central Depositories Act or any other Act for whose administration the Authority is wholly or partly responsible or an approved or formerly approved securities exchange or any persons associated with such licensees or approved stock exchanges;

“regulations” means regulations made under section 149;

“relevant authority”—

- (a) in relation to a member company or member firm, means the stock exchange by which the company is recognised; and
- (b) in relation to any other person, means the Authority;

“relevant bodies” means the bodies specified in Schedule 2 to this Act;

“representative” means a person approved by the Authority who is in the employment of the approved person and plays a critical role in that company, and includes a trader, director, general manager, analyst or any other person employed by the licensee;

“rules”, in relation to an approved stock exchange, means the rules governing the exchange or the conduct of its members, by whatever name called;

“securities” means—

- (a) debentures or bonds issued or proposed to be issued by a government;
- (b) debentures, shares, bonds or notes issued or proposed to be issued by a body corporate;

- (c) any right, warrant, option or future in respect of any debenture, shares, bonds, notes, depository receipts or in respect of commodities or derivatives;
- (d) units, interest or share offered under a collective investment scheme;
- (e) investment contracts;
- (f) any financial instruments, commonly known as securities, but does not include—
  - (i) bills of exchange;
  - (ii) promissory notes; or
  - (iii) certificates of deposit issued by a bank or financial institution licensed under the Financial Institutions Act; or
- (g) any other instrument prescribed by the Authority to be a security;

“securities central depository” means a securities central depository approved by the Authority under section 5 of the Securities Central Depositories Act;

“securities exchange” means a market, exchange, securities organisation or other place at which securities are offered for sale, purchase or exchange, including any clearing, settlement or transfer services connected with the transaction;

“self regulatory organisation” means a person that is organised for the purpose of regulating the operations and the standards of practice and business conduct, in capital markets, of its members and their representatives with a view to promoting the protection of investors and the public interest;

“shares” means the interest of members of a body corporate who are entitled to share in the capital or income of that body corporate and includes stock;

“stockbroker” means a person who carries on the business of buying or selling of securities as an agent for an investor in return for a commission;

“stock exchange” means a market, exchange or other place at which securities are offered for sale, purchase or exchange, including any clearing, settlement or transfer services connected with it;

“stock market” means a market, or other place at which, or a facility by means of which—

- (a) offers to sell, purchase or exchange securities are regularly made or accepted;

- (b) offers or invitations are regularly made, being offers or invitations that are intended or may reasonably be expected to result, whether directly or indirectly, in the making or acceptance of offers to sell, purchase or exchange securities; or
- (c) information is regularly provided concerning the prices at which, or the consideration for which, particular persons, or particular classes of persons, propose, or may be reasonably be expected, to sell, purchase or exchange securities;

“substantial shareholder” means a shareholder entitled to exercise or control the exercise of fifteen percent or more of the voting power at general meetings of the company or one who is in a position to control the composition of a majority of the board of directors of a company;

“suspicious transaction” for the purposes of money laundering means a transaction which is inconsistent with a client’s known legitimate business or personal activities or with the normal business for that client’s type of account or business relationship or a complex and unusual transaction or complex or unusual pattern of transactions that has no apparent or visible economic purpose;

“this Act” includes any regulations made under this Act;

“Tribunal” means the Capital Markets Tribunal established under Part XIII;

“trust account” means a trust account opened and maintained under section 81;

“underwriter” means a body corporate approved by the Authority to carry on or conduct the function of underwriting;

“underwriting” means the purchase or commitment to purchase or distribute any issue or offer of securities with a view to immediate or prompt public distribution by or through them;

“unit” has the same meaning as in the Collective Investment Schemes Act;

“unit trust scheme” has the same meaning as in the Collective Investment Schemes Act.

## **2. Meaning of “associated person”**

(1) A reference in this Act to a person associated with another person shall be construed as follows—

- (a) where the other person is a body corporate—



- (i) a director or secretary of the body corporate;
  - (ii) a body corporate that is related to the other person; or
  - (iii) a director or secretary of the related body corporate;
- (b) where the matter to which the reference relates is the extent of power to exercise, or to control the exercise of, the voting power attached to voting shares in a body corporate, a person with whom the other person has, or proposes to enter into, an agreement, understanding or undertaking, whether formal or informal and whether express or implied—
- (i) by reason of which either of those persons may exercise, directly or indirectly control the exercise of, or substantially influence the exercise of, any voting power attached to a share in the body corporate;
  - (ii) with a view to controlling or influencing the composition of the board of directors or the conduct of affairs of the body corporate; or
  - (iii) under which either of those persons may acquire from each other shares in the body corporate or may be required to dispose of those shares in accordance with the directions of the other person;
- (c) a person in concert with whom the other person is acting, or proposes to act, in relation to the matter to which the reference relates;
- (d) where the matter to which the reference relates is a matter other than the extent of power to exercise, or to control the exercise of, the voting power attached to voting shares in a body corporate—
- (i) subject to subsection (2), a person who is a director of a body corporate that carries on a business of dealing in securities and of which the other person is also a director;
  - (ii) subject to subsection (2), a person who is a director of a body corporate of which the other person is a director, not being a body corporate that carries on a business of dealing in securities; or
  - (iii) a trustee of a trust in relation to which the other person benefits or is capable of benefiting otherwise than by reason of transactions entered into in the ordinary course of business in connection with the lending of money;
- (e) a person with whom the other person is by virtue of any law regarded as associated in respect of the matter to which the reference relates;

- (f) a person with whom the other person is, or proposes to become, associated, whether formally or informally, in any other way in respect of the matter to which the reference relates; or
- (g) where the other person has entered into, or proposes to enter into, a transaction, or has done, or proposes to do, any other act or thing, with a view to becoming associated with a person referred to in paragraph (a), (b), (c), (d), (e) or (f).

(2) Where, in proceedings under this Act, it is alleged that a person referred to in subsection (1)(d)(i) or (ii) was associated with another person at a particular time, that person shall be taken not to have been associated in relation to a matter to which the proceedings relate unless the person alleging the association proves that the first-mentioned person at that time knew or ought reasonably to have known the material particulars of that matter.

(3) A person shall be taken to be associated with another person by virtue of subsection (1)(b), (c), (e) or (f) by reason only that one of those persons furnishes advice to, or acts on behalf of, the other person in the proper performance of functions that relate to his or her professional capacity or to his or her business relationship with the other person.

### **3. Definition of “interest in securities”**

(1) Where any property held in trust consists of or includes securities in which a person knows, or has reasonable grounds for believing that that person has an interest, that person shall be taken to have an interest in those activities.

(2) A person shall be taken to have an interest in a security where a body corporate has an interest in that security and—

- (a) the body corporate is, or its directors are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person in relation to that security;
- (b) that person has a controlling interest in the body corporate; or
- (c) that person is, or the associates of that person or that person and associates of that person are, entitled to exercise or control the exercise of not less than fifteen percent of the votes attached to the voting shares in the body corporate.

(3) A person shall be taken to have an interest in a security in any one or more of the following circumstances—

- (a) where the person has entered into a contract to purchase a security;
- (b) where the person has a right, otherwise than by reason of having an interest under a trust, to have a security transferred to that person or to that person's order, whether the right is exercisable immediately or in the future and whether on the fulfilment of a condition or not;
- (c) where the person has the right to acquire a security or an interest in a security, under an option, whether the right is exercisable immediately or in the future and whether on the fulfilment of a condition or not; or
- (d) where the person is entitled, otherwise than by reason of having been appointed a proxy or representative, to vote at a meeting of members of a body corporate or of a class of its members, to exercise or control the exercise of a right attached to a security, not being a security of which the person is the registered holder.

(4) A person shall be taken to have an interest in a security if that security is held jointly with another person.

(5) For the purpose of determining whether a person has an interest in a security, it is immaterial that the interest cannot be related to a particular security.

(6) There shall be disregarded for the purpose of determining whether a person has an interest in a security—

- (a) an interest in a security if the interest is that of a person who holds the security as a bare trustee;
- (b) an interest in a security of a person whose ordinary business includes the lending of money if the person holds the interest only by way of security for the purpose of a transaction entered into in the ordinary course of business in connection with the lending of money;
- (c) an interest of a person in a security being an interest held by that person by reason of that person holding a prescribed office; and
- (d) a prescribed interest in a security being an interest of such person, or of the person included in such class of persons, as may be prescribed.

- (a) its remoteness;
- (b) the manner in which it arose; or section
- (c) the fact that the exercise of a right conferred by the interest is or is capable of being made subject to restraint or restriction.

## PART II—CAPITAL MARKETS AUTHORITY

### **4. Establishment of Capital Markets Authority**

(1) There is established an authority to be known as the Capital Markets Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall be capable in its corporate name of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of both movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done by a body corporate.

### **5. Official seal of Authority**

(1) The official seal of the Authority shall be in a form determined by the Board.

(2) The official seal shall, when affixed to any document, be authenticated by the signatures of the Chief Executive Officer and the Secretary to the Board.

(3) In the absence of the Chief Executive Officer, the person performing the functions of the Chief Executive Officer shall sign in his or her place.

(4) In the absence of the Secretary, the person performing the functions of the Secretary shall sign in the place of the Secretary.

(5) An instrument or contract which if executed or entered into by a person other than a body corporate would not require to be under seal, may be executed or entered into on behalf of the Authority by the Chief Executive Officer or the Secretary to the Board or a person duly authorised by resolution of the Board.

(6) Every document purporting to be an instrument or contract executed or issued by or on behalf of the Authority in accordance with this section shall be taken to be executed or issued until the contrary is proved.

## **6. Object of Authority**

The object of the Authority is—

- (a) to promote confidence in the capital markets;
- (b) to ensure honesty and transparency in capital markets transactions;
- (c) to carry out investor education;
- (d) to protect investors; and
- (e) to reduce systemic risk.

## **7. Functions of Authority**

- (1) The functions of the Authority are—
  - (a) to approve prospectuses and other offering documents under which securities are offered to the public and to approve information memorandum;
  - (b) to develop all aspects of the capital markets with particular emphasis on the removal of impediments to, and the creation of incentives for, long term investments in productive enterprise;
  - (c) to create, maintain and regulate, through implementation of a system in which the market participants are self regulatory to the maximum practicable extent, of a market in which securities can be issued and traded in an orderly, fair and efficient manner;
  - (d) to cooperate with, provide information to, conduct any investigation or inquiry for, or otherwise assist any foreign regulatory authority in the performance of its duties;
  - (e) to implement regional and international standards and best practice in securities markets, securities regulation and supervision;
  - (f) to protect investor interests; and
  - (g) to operate the Investor Compensation Fund established by section 90.

(2) For the purpose of carrying out its objects, the Authority may exercise, perform and discharge all or any of the following powers, duties and functions—

- (a) advise the Minister on all matters relating to the development and operation of capital markets;
- (b) maintain surveillance over securities to ensure orderly, fair and equitable dealings in securities;
- (c) grant a licence to any person to operate as a stockbroker, dealer or investment adviser, fund manager, investment house, collective investment scheme, market adviser, representative, trustee, custodian or depository; and ensure the proper conduct of that business;
- (d) grant approval to any person to operate as a commodities exchange, securities exchange, securities central depository, credit rating agency, registrar, underwriter, clearing house, clearance and settlement facility or to operate in any other capacity which directly contributes to the attainment of the objectives of this Act; and to ensure the proper conduct of that business;
- (e) approve venture capital funds;
- (f) approve any other persons dealing in securities or exercising any functions related to securities, and their agents and to control and supervise their activities with a view to maintaining proper standards of conduct and professionalism in the securities business;
- (g) inquire into the affairs or conduct of any approved person and to hear and determine any complaints concerning any act or omission, which, if proven, would be a breach of this Act and to refer, in its discretion, that inquiry or complaint to the Tribunal;
- (h) publish, when the Authority considers it appropriate, any report or comment made by the Authority in the course of the exercise of its functions;
- (i) conduct any investigation or inquiry relevant to the securities markets in Uganda or elsewhere and publish any report arising from that investigation or inquiry;
- (j) make and maintain effective arrangements for consulting practitioners and consumers on its general policies and proposed legislative measures for the capital markets industry;
- (k) formulate principles for the guidance of the securities industry;

- (l) monitor the solvency of licence holders and take measures to protect the interests of customers where the solvency of any licence holder is in doubt;
- (m) protect the integrity of the securities market against any abuses;
- (n) monitor takeovers and mergers in respect of listed companies in Uganda and adopt measures for the supervision and regulation of takeovers and mergers in order to protect the interests of investors and to provide for an orderly and well-informed capital markets;
- (o) formulate measures to minimise and supervise any conflict of interest that may arise for licensed persons and the Authority;
- (p) create the necessary environment for the orderly growth and development of the capital markets;
- (q) cooperate with and enter into agreements for mutual cooperation and assistance with other regulatory authorities, whether within or outside Uganda, for the development and regulation of cross border activities in capital markets and provide assistance and information to those authorities;
- (r) perform the functions conferred on the Authority by the Companies Act;
- (s) implement East African Community Council regulations, directives, decisions or recommendations relating to the securities markets in the East African region;
- (t) trace and freeze any assets, including the bank accounts of any person who, upon investigation by the Authority, is found to have engaged in any fraudulent dealings in securities or insider trading;
- (u) act as the supervisory authority for anti-money laundering and combating of financing of terrorism in the capital markets and perform the functions conferred on the Authority, as an accountable person, under the Anti-Money Laundering Act; and
- (v) undertake such other activities as are necessary or expedient for giving full effect to the provisions of this Act.

## **8. Independence of Authority**

(1) The Authority shall be independent in the performance of its functions and duties and shall not be subject to the direction or control of any person.

(2) Subject to subsection (1), the Minister may give the Authority policy guidance.

## 9. Appointment of Chief Executive Officer and other staff

(1) The Minister shall appoint a Chief Executive Officer of the Authority on the recommendation of the Board and the Board shall determine the conditions and terms of employment of the Chief Executive Officer.

(2) The Chief Executive Officer shall have expertise in financial regulation, law, finance, business, accounting, economics, investment or a related field with experience and competence to manage the affairs of the Authority.

(3) The Chief Executive Officer shall hold office for five years and is eligible for re-appointment for one more term.

(4) The Chief Executive Officer shall be an *ex officio* member of the Board and shall attend all meetings of the Board but with no right to vote at any meeting of the Board.

(5) The Chief Executive Officer shall, subject to the general direction and control of the Board, and except to the extent that the Board may otherwise prescribe, be responsible to the Board for—

- (a) the direction and management of the affairs, operations and funds of the Authority;
- (b) the exercise, discharge and performance of the objects, powers, functions and duties of the Authority;
- (c) carrying out and giving effect to the decisions of the Board; and
- (d) the administration and control of the employees of the Authority.

(6) The Chief Executive Officer may be removed from office on grounds of—

- (a) incompetence;
- (b) misbehaviour or misconduct;
- (c) incapacity arising from mental or physical illness rendering the Chief Executive Officer unable or unfit to discharge his or her duties as Chief Executive Officer;
- (d) being adjudged bankrupt or entering into a composition or scheme of arrangement with his or her creditors;



- (e) being sentenced by a court to imprisonment, without the option of a fine, other than in a case of a sentence of less than six months for a traffic offence or the case of a suspended sentence;
- (f) being convicted of an offence involving dishonesty, fraud or moral turpitude; and
- (g) in the case of a person holding a professional qualification being disqualified or suspended, from practising his or her profession in Uganda or in any other country by order of a competent authority made in respect of that person.

(7) The Board may appoint such other officers and employees, as it considers necessary for the efficient discharge of the responsibilities and functions of the Authority.

(8) The Board may delegate to the Chief Executive Officer any of its powers, functions and duties as it considers appropriate.

(9) The officers and other employees appointed under subsection (7) shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by the Board.

(10) Every officer or employee appointed under subsection (7) shall, subject to this Act, exercise powers and functions and perform such duties as are assigned to the officer or employee by the Chief Executive Officer.

## **10. General Fund, financial year and accounts**

(1) The Authority shall have a General Fund.

(2) There shall be paid into the General Fund—

- (a) money from the Consolidated Fund;
- (b) all sums of money paid as fees under this Act; and
- (c) all sums of money received by the Authority for its operations from any other source.

(3) There shall be paid out of the General Fund all sums of money required to defray the expenditure incurred by the Authority in the discharge of its objects and functions.

(4) The financial year of the Authority shall be the period of twelve months commencing on the 1st day of July and ending on the 30th day of June of the following year.

(5) The Authority shall keep proper books of accounts of all its income and expenditure and proper records in relation to them.

(6) The Authority shall cause to be prepared in respect of each financial year, an annual performance report which shall include—

- (a) financial statements and financial reporting standards in accordance with the Public Finance Management Act; and
- (b) any other information in respect of the financial affairs of the Authority as the Minister may require.

(7) The Authority shall submit to the Minister at the end of each quarter a statement of its accounts in respect of that quarter.

(8) The accounts of the Authority shall, in respect of each financial year, be audited by the Auditor General or by an auditor appointed by the Auditor General.

(9) The Authority shall ensure that within four months after the expiry of each financial year, financial statements described in subsection (6) are submitted to the Auditor General for auditing.

(10) The Auditor General and any auditor appointed by the Auditor General shall have access to all books of accounts, vouchers and other financial records of the Authority and shall be entitled to have any information and explanation required by him or her in relation to them as he or she may think fit.

(11) The Auditor General shall, within two months after receipt of the financial statements under subsection (9), audit the accounts and deliver to the Authority a copy of the audited accounts, together with the report on them, stating any matter which in his or her opinion should be brought to the attention of the Minister.

(12) The Auditor General shall also deliver to the Minister a copy of the audited accounts of the Authority, together with his or her report on them.

(13) The Minister shall cause the financial statements of the Authority to be presented to Parliament within four months after the expiration of the financial year to which it relates or within two months after receipt of a copy of the Auditor General's report on the accounts delivered under subsection (12).

**11. Provision of records and information by approved persons and key persons**

(1) The Authority may, at any time, without notice, enter any premises owned, controlled or occupied by an approved person and examine any books that may be found on those premises or that may be in the possession of the approved person or that may, in any way, relate to the business of the approved person or to the matters listed in subsection (6).

(2) The Authority may require any key person to provide an explanation to the matters listed in subsection (6).

(3) The Authority may require an approved person to provide regular reports or returns as the Authority considers appropriate.

(4) The Authority may, by notice in writing, require any key person of an approved person—

- (a) to provide specified information;
- (b) to produce specified documents; or
- (c) to attend at such place and time as may be specified in the notice and answer questions or make a statement which the Authority or any duly authorised officer or agent of the Authority reasonably requires the person to answer or to make.

(5) The information or documents required to be provided under subsection (4) shall be provided or produced before the end of such reasonable period and at such place, as may be specified by the Authority.

- (6) This section applies to books or questions relating to—
  - (a) the business or affairs of an approved person or former approved person;
  - (b) the integrity, competence, financial standing or organisation of an approved person or key person;

- (c) the compliance by those persons with this Act, the Collective Investment Schemes Act, the Securities Central Depositories Act, the Anti-Money Laundering Act or any other Act for whose administration the Authority is wholly or partly responsible and any regulations, orders or guidelines, or condition of any grant of a licence, or direction given under any such Act; or
- (d) any other matter about which the Authority may reasonably require information for the performance of its functions.

(7) The Authority may require any information provided under this section to be provided in such form as it may reasonably require.

- (8) The Authority may require—
- (a) any information provided, whether in a document or otherwise, to be verified in such manner as it may reasonably require; or
  - (b) any document produced, to be authenticated in such manner as it may reasonably require.

(9) Where books are produced under this section, the Authority may

- (a) take copies of them and retain them upon giving reasonable notice and specification of the books, to the person required to give access to them; and
- (b) instruct an accountant or other expert to examine the books or any of them and report to the Authority, and for that purpose, the books may be delivered to the accountant or expert for that examination.

(10) Where books required under this section are not produced, the Authority may require the person who should have produced them—

- (a) to state, to the best of his or her knowledge and belief, where the books may be found;
- (b) to identify the person who, to the best of his or her knowledge and belief, last had custody of the books and where he or she may be found; and
- (c) to state why the books cannot be produced.

(11) For the purposes of this section, an associate of an “approved person” as referred to in the definition of “key person” in section 1 includes

- (a) a member of the governing council of a stock exchange;

- (b) a nominee of, or any person controlled by, an approved person;
- (c) where the person is a partnership, any partner, including a corporate partner; and
- (d) where the approved person is a company, any company or director of a company which owns, or which is owned by the same parent company as the approved person.

(12) Any person who, without reasonable excuse, fails to comply with a requirement of this section or obstructs or hinders the Authority in the exercise of its powers under this section, commits an offence and is liable, on conviction, to a fine not exceeding forty-eight currency points or to imprisonment for a term not exceeding two years, or both.

(13) A person shall not be subject to any liability by reason that that person complied with a requirement made or purported to have been made under this section.

## **12. Power to search premises**

(1) The Authority may, at any time and without prior notice, if it has reason to believe that there are, in any premises, any books the production of which has been directed by the Authority and which have not been produced in compliance with the direction, authorise an officer and any other person or persons instructed by the Authority to—

- (a) use such force as is necessary and reasonable to enter any premises that the Authority has reason to believe are premises at which those books are kept or may be located;
- (b) search for the books and for that purpose break open any cupboard, drawer, container or receptacle, whether a fixture or not, on the premises;
- (c) seize or make a copy of any of the books;
- (d) question any person who is present on the premises, or the directors, officers, members, employees or partners of any person conducting business on the premises as to the location of the books;
- (e) direct that the premises or any part of it shall be left undisturbed for as long as it is necessary to search the premises for those books;
- (f) direct, by notice in writing addressed and delivered to any person who has control over the custody of the books, that person to

produce and deliver the books to the officer of the Authority issuing the notice, at the time and place referred to in the notice; and

- (g) examine that book, and seek from any person referred to in paragraph (d) an explanation regarding any entry in the book.

(2) The officer referred to in subsection (1) shall, at the request of any person on the premises affected by the entry and in performance of the functions of the Authority under this section, exhibit to the person the written authorisation from the Authority.

- (3) A person shall not
  - (a) hinder or obstruct an officer of the Authority or persons assisting him or her in the performance of his or her functions;
  - (b) refuse or fail to comply with any request made by an officer of the Authority in the performance of the officer's functions;
  - (c) refuse or fail to answer any questions which the officer of the Authority or any expert instructed by the Authority directs at that person; or
  - (d) intentionally furnish false or misleading information to an officer of the Authority or expert instructed by the Authority.

(4) For the purposes of this section "premises" includes any building or structure, or part of a building or structure, whether above or below the surface of the land or water, or any vehicle, vessel or aircraft.

(5) A person shall not falsely claim or hold himself or herself out to be an officer of the Authority.

(6) Any person who contravenes subsections (3) and (5) commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding one year, or both.

### **13. Incriminating statements**

(1) A person is not excused from failing to provide a statement explaining any matter relating to the compilation of any books or any matter requested of him or her under section 11, 12 or 20 on the ground that the statement might tend to incriminate him or her.

(2) Notwithstanding subsection (1), where the person claims before making a statement required of him or her that the statement might tend to incriminate him or her, the statement provided in answer to the request shall not be admissible in evidence against him or her in any criminal proceedings other than proceedings under section 11, 12 or 20.

(3) Subject to subsection (2), a statement made by a person in compliance with a requirement under section 11, 12 or 20 may be used in evidence in any criminal or civil proceedings against the person.

#### **14. Offences in relation to provision of false information**

(1) A person who knowingly or recklessly provides the Authority or any other person entitled to information under this Act with information which is false or misleading in a material particular commits an offence if the information is provided—

- (a) in purported compliance with a requirement imposed under this Act; or
- (b) otherwise than as mentioned in paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that the information would be used by the Authority for the purpose of exercising its functions under this Act.

(2) Any person who knowingly or recklessly provides the Authority or any other person with information which is false or misleading in a material particular commits an offence.

(3) An approved person commits an offence if that approved person fails to provide the Authority with any information in the possession of that approved person, knowing or having reasonable cause to believe that or being reckless as to whether—

- (a) the information is relevant to the exercise by the Authority of its functions in relation to the approved person; and
- (b) the withholding of the information is likely to result in the Authority being misled as to any matter which is relevant to and of material significance for the exercise of those functions in relation to the licensee or former licensee.

(4) Any person who contravenes this section, commits an offence and is liable, on conviction, to a fine not exceeding three hundred currency points or to imprisonment for a term not exceeding three years, or both.

(5) In this section, a reference to disclosing information includes, in relation to information that is contained in a document, the furnishing of the document.

### **15. Copies or extracts of books admissible in evidence**

(1) Subject to this section and section 17, a copy of or extract from a book relating to a matter specified in section 11(1) or (3) is admissible in evidence as if it were the original book.

(2) A copy of or extract from a book is not admissible in evidence under subsection (1) unless it is proved that the copy or extract is a true copy of the book or of the relevant part of the book.

(3) For the purpose of subsection (2), evidence that a copy of or extract from a book is a true copy of the book or of a part of the book may be given by a person who has compared the copy or extract with the book or the relevant part of the book and may be given orally or by an affidavit or statutory declaration.

### **16. Savings for lawyers**

Nothing in section 11 or 12 shall compel an advocate to produce a document that contains privileged communication made by or to him or her in his or her professional capacity or authorise the taking of possession of any such document which is in his or her possession; but if the advocate refuses to produce the document, he or she shall nevertheless be obliged to give the name and address, if he or she knows them, of the person to whom or by or on whose behalf the communication was made.

### **17. Secrecy of information**

(1) Subject to subsections (2) and (3), a person who receives information relating to the business or other affairs of any person—

(a) under or for the purposes of this Act or any other Act for whose administration the Authority is wholly or partly responsible; or



(b) directly or indirectly from a person who has so received it, commits an offence if that person discloses the information without the consent of the person to whom it relates or the person from whom it was received and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding two years, or both.

(2) Subsection (1) does not apply to information which, at the time of the disclosure, is or has already been made available to the public from other sources, or to information in the form of a summary or collection of information so framed as not to permit information relating to any particular person to be ascertained from it.

(3) Subsection (1) does not apply to the disclosure of information where that information is disclosed—

- (a) for the purpose of enabling or assisting the Authority or any person acting on its behalf to discharge their functions under this Act, or any other enactment under which they are charged with duties;
- (b) by the Authority, or any person acting on its behalf, to a foreign regulatory authority;
- (c) to a person showing whether or not any person is a licensed person;
- (d) with a view to the investigation of a suspected offence, or institution of, or for the purposes of, any criminal proceedings, whether under this Act or not;
- (e) in connection with any other proceedings arising out of this Act;
- (f) with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings by a professional body relating to the exercise of professional duties by a member of that body;
- (g) by the Authority, or any person acting on its behalf, to the Attorney General or to a police officer or to any other law enforcement agency being information in the possession of the Authority which may be of assistance to the Attorney General or a police officer or other law enforcement agency in the performance of their duties; except that the Attorney General or police officer or other law enforcement agency may not disclose the information to any other person except where, in their discretion, the disclosure is necessary to perform their duties or to assist others in the performance of their duties, whether in Uganda or outside Uganda;

- (h) by the Authority to the auditor of an approved person, if it appears to the Authority that disclosing the information would enable or assist the Authority to discharge the functions mentioned in paragraph (a) or would otherwise be in the interests of persons who have transacted or may transact business with a licensed person;
- (i) to a qualified person if, in order to enable or assist the Authority properly to discharge any of its functions under this Act, the Authority considers it necessary to seek advice from any qualified person on any matter requiring the exercise of professional skill and the disclosure appears to the Authority to be necessary to ensure that the qualified person concerned is properly informed with respect to the matters on which the person's advice is sought;
- (j) where disclosure is required as a result of a legal obligation, including an order of the court relating to a specific item of confidential information; or
- (k) where disclosure is permitted by regulations made under this Act.

(4) Information shall not be disclosed under subsection (3)(b) unless the Authority, or any person acting on its behalf, has taken into account section 22.

(5) This section applies to information supplied to the Authority by a foreign regulatory authority for the purposes of the Authority's functions, whether under this Act, or any other Act which confers duties on the Authority and information relating to the business or other affairs of any person which the Authority may receive in connection with its functions under any other Act.

(6) A "qualified person" for the purposes of subsection (3)(i) is a person who is professionally qualified and skilled to give advice on securities transactions and matters and includes an advocate, chartered accountant or valuer.

## **18. Disclosure to Authority**

(1) The Authority may, where it considers it necessary in order to fulfil the provisions of this Act, require an approved person to disclose to it, in relation to any acquisition or disposal of securities, the name of the person from or through whom or on whose behalf the securities were acquired or

disposed of and the nature of the instructions given to the stockbroker, dealer or fund manager in respect of the acquisition or disposal.

(2) The Authority may require a person who has acquired, held or disposed of securities to disclose to it—

- (a) whether the person acquired, held or disposed of securities as trustee for or on behalf of another person or as a nominee;
- (b) whether there is any other person who is a beneficial owner of the securities;
- (c) the name of any person on whose behalf that person has acted or who is a beneficial owner of the securities; and
- (d) the nature of any instruction given to that person as trustee or nominee in respect of the acquisition, holding or disposal.

(3) The Authority may require a securities exchange to disclose to it, in relation to an acquisition or disposal of securities on the stock market of that stock exchange, the names of the members of that securities exchange who acted in the acquisition or disposal.

(4) The Authority may by regulations, prescribe the information to be maintained in respect of beneficial owners of securities.

(5) Any person who contravenes subsection (3) commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding two years, or both.

### **19. Powers of Authority where there is suspected non-compliance**

(1) Where, as a result of any information received by the Authority or any investigation conducted by or for the Authority under sections 12 and 20, or as a result of any reference made to the Authority by an approved stock exchange, or from any foreign regulatory Authority or body or other source, the Authority suspects that there has been a failure on the part of any person to comply with this Act or with regulations made under this Act, or with any rules issued by the Authority or an approved stock exchange, the Authority may—

- (a) appoint a committee to make further inquiry into that matter; or
- (b) apply to the court for relevant orders.

(2) Where the Authority makes further inquiry under subsection (1) (b) and after inquiring into the matter and providing opportunity for any person suspected of non-compliance to appear on their own behalf or by counsel, if that person so requests, the Authority is of opinion that there has been a failure to comply with any matters of non-compliance by that person, the Authority may—

- (a) warn that person, including an approved stock exchange and in the case of a body corporate, any director of that body corporate and if the Authority so determines publish a report on that matter;
- (b) censure that person, including an approved securities exchange and in the case of a body corporate, any director of that body corporate, and if the Authority so determines publish a report on that matter;
- (c) publish a statement on the matter;
- (d) give directions to the person concerned requiring such action to be taken as the Authority considers necessary in the interest of persons affected, or in the public interest, to remedy the non-compliance or contravention;
- (e) impose a civil penalty on the person including an approved stock exchange, and in the case of a body corporate, any director of that body corporate knowingly a party to that contravention or non-compliance, not exceeding one hundred currency points;
- (f) where that person is a licensed person under this Act, suspend or cancel the licence of that person;
- (g) refer the matter for prosecution or other action before a court;
- (h) apply to the court for relevant orders; or
- (i) take any other action that the Authority is empowered to take under this Act or regulations made under this Act.

(3) The Authority may sue for recovery of a civil penalty imposed under this section.

(4) Any person aggrieved by the decision of the Authority under subsection (2) may appeal to the Tribunal within twenty-one days from the date of the decision, and the Tribunal may confirm or reverse the decision or make such other order as it thinks fit.

(5) On an appeal under subsection (4), the *status quo* of any matter or activity, which is the subject of the appeal, shall be maintained until the appeal is determined.

## **20. Investigations**

- (1) The Authority may carry out investigations—
  - (a) where the Authority has reasonable grounds to believe that there has been a contravention of the provisions of this Act or the Collective Investment Schemes Act or any other Act whose administration the Authority is wholly or partly responsible, or any regulations, licence conditions, or directions made under any such Act;
  - (b) where the Authority has reasonable grounds for suspecting that it may be necessary to prohibit trading in securities under section 97;
  - (c) where the Authority has reasonable grounds to believe that a person has contravened the provisions of the Companies Act in relation to the securities of a company that are publicly held;
  - (d) where the Authority has reasonable grounds to believe that a body corporate or any officer of that body corporate or any person may have contravened the provisions of this Act or any applicable listing rules;
  - (e) where the Authority has reasonable grounds to believe that an approved person or key person may not be a fit and proper person to continue to be an approved person or key person;
  - (f) in the interests of persons who have transacted or may transact business with a licensed person;
  - (g) in order to maintain or enhance the integrity of the Uganda capital markets;
  - (h) subject to section 22, in order to provide assistance to a foreign regulatory authority; or
  - (i) in order to perform its functions under this Act.
  
- (2) The Authority may appoint one or more competent persons, whether they are officers of the Authority or not, to conduct an investigation into—
  - (a) a suspected contravention;
  - (b) the nature, conduct or state of an approved person's business or any particular aspect of it;
  - (c) any dealing in securities of a company or body corporate referred to in subsection (1);
  - (d) any advice, report or analysis given by an approved person or key person that may be relevant to the matter under investigation;

- (e) *an approved person's or key person's integrity, competence, financial position or organisation;*
- (f) *any matter that is the subject of a request by a foreign regulatory authority; or*
- (g) *any other matter that the Authority reasonably requires to be investigated in the performance of its functions under this Act, the Collective Investment Schemes Act, or any other Act whose administration the Authority is wholly or partly, responsible.*

(3) *It shall be the duty of any person who appears to a competent person to be in possession of relevant information—*

- (a) *to provide to a person appointed under subsection (2), within such time and at such place as the person may require, all documents relating to the matter under investigation which are in the custody or authority of that person;*
- (b) *if the documents are not produced, or are claimed not to be in that person's custody or authority, to inform the person appointed under subsection (2), to the best of the knowledge and belief of that person, where the books may be found; or the reasons why the books cannot be found;*
- (c) *to attend before the person appointed under subsection (2) at such time and place as that person may require, to answer questions or make a statement during investigation; and*
- (d) *otherwise to give all assistance in connection with the investigation as is reasonably required.*

(4) *A person appointed under subsection (2) may take any documents or copies or extracts from any documents provided to that person under subsection (3)(a).*

(5) *For the purpose of exercising the powers under this section, a person appointed under subsection (2) may enter any premises where he or she has reasonable grounds to believe that relevant information may be kept but shall not do so without prior notice in writing, unless he or she has reasonable cause to believe that if notice were given, any documents whose provision might be required would be removed, tampered with or destroyed.*

(6) *A person exercising powers by virtue of an appointment under this section shall, if so required, produce evidence of his or her authority.*

- (7) Any person who—
- (a) without reasonable excuse fails to provide any document which it is the duty of that person to provide under subsection (3);
  - (b) without reasonable excuse fails to assist or attend before a person appointed under subsection (2) when required to do so;
  - (c) without reasonable excuse fails to answer any question which is put by the person so appointed with respect to the investigation; or
  - (d) obstructs a person appointed under subsection (2) in the performance of his or her duties,

*commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding two years, or both.*

(8) *Where any person by whom documents are taken under this section claims a lien on any such document, subsection (4) shall be without prejudice to the lien.*

(9) *A person shall not be subject to any liability by reason that he complied with a requirement made or purported to have been made under this section.*

## **21. Inspection by Authority**

(1) *The Authority may inspect the books, accounts, documents and transactions of an approved person.*

(2) *The Authority may appoint any person to exercise the power of the Authority under subsection (1).*

(3) *For the purpose of an inspection under this section, the stock exchange or an approved person shall afford the Authority access to, and shall produce, its books, accounts and documents and shall give such information and facilities as may be required to conduct the inspection.*

(4) *A person appointed by the Authority may copy or take possession of the books, accounts and other documents of an approved person.*

(5) *Any person who, or stock exchange which, fails, without reasonable excuse, to produce any book, account or document or furnish any information or facilities in accordance with subsection (3) commits an offence*

and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding eight years, or both.

## **22. Assistance to foreign regulatory authority**

(1) Notwithstanding any provision to the contrary in this Act, the Authority may, subject to subsection (2) provide assistance to a foreign regulatory authority in connection with any legal or regulatory requirement which the foreign regulatory authority enforces or administers, by—

- (a) carrying out investigations of any alleged breaches of the legal or regulatory requirements; or
- (b) providing such other information, opinion or assistance to the foreign regulatory authority as the Authority sees fit.

(2) The Authority shall determine whether the provision of assistance would be consistent with its functions or would be in the interests of the maintenance of the integrity of the Uganda capital markets, and in reaching a determination on the matter, the Authority shall have regard to any relevant matter including—

- (a) whether the foreign authority is a proper foreign regulatory authority as defined by this Act;
- (b) whether the assistance provided would be used by a foreign regulatory authority in exercising its functions for a proper regulatory purpose;
- (c) whether the foreign regulatory authority would provide comparable assistance to the Authority;
- (d) whether the foreign regulatory authority shall bear the cost of the investigation;
- (e) whether the assistance would be relevant to the foreign regulatory authority in implementing or enforcing the laws and regulations in its jurisdiction relating to securities and derivatives;
- (f) whether the foreign regulatory authority would comply with any conditions the Authority may impose on the transmission of information;
- (g) whether the foreign regulatory authority is able to adequately protect any confidential information that may be provided to it;
- (h) whether the provision of assistance would maintain or enhance the reputation of the Uganda capital markets; and
- (i) whether a criminal proceeding has been initiated in Uganda based on the information that is the subject of the request for assistance.



(3) Where the Authority provides assistance to a foreign regulatory authority that is a signatory to the International Organisation of Securities Commission memorandum of understanding or other agreement to which the Authority is also a party, and the information or request falls within the scope or terms of the memorandum of understanding or agreement, it shall be presumed that the Authority took into account the considerations listed in subsection (2).

(4) The Authority may conduct an investigation at the request of a foreign regulatory authority or otherwise provide any assistance, whether or not the assistance is related to an offence committed in Uganda, or whether any conduct under investigation would, if committed in Uganda, be an offence.

(5) The Authority may, if it considers it desirable in order to fulfil its functions or to maintain the integrity of the Uganda capital markets, exercise other powers where to do so would provide assistance to a foreign regulatory authority, including imposing a condition on a licence, revoking a licence, requiring the removal of a controller, beneficial owner, director, manager, or employee of a licensee, withdrawing approval of a securities exchange and seeking an order from the court.

### **23. Power of court to make certain orders**

(1) Where—

- (a) on the application of the Authority, it appears to the court that a person has committed an offence under this Act, or has contravened the conditions or restriction of a licence or the rules or listing rules of a stock exchange or is about to do an act with respect to dealing in securities that, if done, would be such an offence or contravention; or
- (b) on the application of a stock exchange, it appears to the court that a person has contravened the rules or listing rules of the stock exchange,

the court may, without prejudice to any other order within its powers, make one or more of the following orders—

- (i) in the case of persistent or continuing breaches of this Act, or of the conditions or restrictions of a licence, or of the rules or listing rules of a stock exchange, an order restraining the person from carrying on a business of dealing

in securities, acting as an investment adviser or as a broker or dealer's representative or investment representative, or from holding out as carrying on that business or so acting;

- (ii) an order restricting a person from acquiring, disposing of or otherwise dealing with any securities that are specified in the order;
- (iii) an order appointing a receiver of the property of a broker or dealer or of property that is held by a broker or dealer for or on behalf of another person whether on trust or otherwise;
- (iv) an order declaring a contract relating to securities to be void or voidable;
- (v) for the purpose of securing compliance with any other order under this section, an order directing a person to do or refrain from doing a specified act; and
- (vi) any order ancillary to any of the orders specified in this subsection which the court considers desirable.

(2) The court may, before making an order under subsection (1), direct that notice of the application referred to in that subsection be given to such persons as it thinks fit or direct that notice of the application be published in such manner as it thinks fit or both.

(3) A person appointed by order of the court under subsection (1) as receiver of the property of a broker or dealer may—

- (a) require the broker or dealer to deliver to the receiver any property of which the latter has been appointed receiver or to give to the receiver all information concerning that property which may reasonably be required;
- (b) acquire and take possession of any property of which he or she has been appointed receiver;
- (c) deal with any property that he or she had acquired or of which he or she has taken possession in any manner in which the broker or dealer might lawfully have dealt with the property; and
- (d) exercise such other power specified in the order in respect of the property.

(4) Any person who, without reasonable excuse, contravenes—

- (a) an order under subsection (1) applicable to that person; or
- (b) a requirement of a receiver appointed by order of the court under subsection (1),

commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding two years, or both.

(5) Subsection (4) does not affect the powers of the court to punish for contempt of court.

(6) The court may rescind, vary or discharge an order made by it under this section or suspend the operation of the order.

(7) In subsections (1) and (3), “property”, in relation to a broker or dealer, includes money, securities and documents of title to securities or other property entrusted to or received on behalf of any other person by the broker or dealer or another person in the course of or in connection with a business of dealing in securities carried on by the broker or dealer.

#### **24. Duty to report**

(1) A person who, in the course of providing services to an approved person or key person or an approved securities exchange or company whose securities are listed on a stock exchange, comes into possession of information indicating that that approved person or securities exchange or company or key person is engaged in conduct involving fraud prohibited by this Act, shall report the matter to the Authority.

(2) Any person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding two years, or both.

(3) Without derogating from the obligation to report to the Authority under subsection (1), a person who comes into possession of information indicating that an approved person or key person is engaged in any conduct referred to in subsection (1) shall report the matter to the Authority.

(4) An action or proceeding, including criminal proceedings or administrative action in relation to that person’s employment or otherwise not may be taken against a person who, in good faith, provides information confidentially to the Authority under subsections (1) and (3).

(5) Subsections (1) and (3) shall not apply to an advocate who receives information in the course of providing legal professional advice regarding compliance with this Act that is sought by an approved person or key person in relation to the prohibited conduct concerned.

## **25. False or misleading financial statements of listed company**

(1) A person shall not influence, coerce, mislead or authorise any person engaged in—

- (a) the preparation of the financial statements of a listed company or any of its related companies; or
- (b) the performance of an audit of the financial statements of a listed corporation or any of its related corporations,

to do anything which the person knows or ought to reasonably have known that it may cause the financial statements or audited financial statements to be false or misleading in a material particular.

(2) Any person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine double the amount falsified or to imprisonment for a term not exceeding three years.

## **26. Protection of persons reporting to authorities in specific circumstances**

(1) Where a person responsible for preparing or approving financial statements or financial information of a listed company, has in the course of that person's duties reasonable belief of any matter which may or will constitute a breach or non-performance of any requirement or provision under this Act or a breach of the rules of the approved securities exchange or any matter which may adversely affect the financial position of a listed corporation and that person submits a report on the matter—

- (a) in the case of a breach or non-performance of any requirement or provision of this Act, to the Authority;
- (b) in the case of a breach or non-performance of any of the rules of approved securities, to the relevant approved securities exchange or the Authority; or
- (c) in any other case which adversely affects to a material extent the financial position of the listed company to the relevant approved securities exchange or the Authority,

the listed company shall not remove, discriminate, demote, suspend or interfere with the lawful employment or livelihood of the person responsible for preparing or approving the financial statements or financial information of the listed company because of the report submitted by that person.

(2) A person responsible for preparing or approving financial statements or financial information of a listed company shall not be liable to be sued in any court for any report submitted by that person in good faith and in the intended performance of that person's duties.

## **27. Statement of principles and code of practice**

(1) The Authority may issue a statement of principles with respect to the conduct and financial standing expected of an approved person.

(2) The conduct expected under subsection (1) may include compliance with a code of standard issued by the Authority or issued with the approval of the Authority, by a person or body other than the Authority.

(3) A code of standards issued by the Authority under subsection (2) may specify—

- (a) a description of conduct which, in the opinion of the Authority, complies with a statement of principles;
- (b) a description of conduct which, in the opinion of the Authority, does not comply with a statement of principles; or
- (c) factors which, in the opinion of the Authority, determine whether or not a person's conduct complies with a statement of principles.

(4) A statement of principles shall have effect as if included as a condition of a licence or approval of the kind affected by the statement of principles.

(5) An approved person who fails to comply with a statement of principles is liable to disciplinary action or the exercise of powers of intervention against that person, except that the non-compliance shall not give rise to a cause of action by any other person or affect the validity of any transaction.

(6) The exercise of disciplinary action under subsection (5) includes the exercise of any power under section 56 or 62.

(7) Where a statement of principles relates to compliance with a code of standards issued by a person or body other than the Authority, the statement of principles may provide—

- (a) that failure to comply with the code of standards shall be a ground for taking disciplinary action or exercising any power under section 56 or 62, only in such cases and to such extent as may be specified;
- (b) that no such action shall be taken, or any such power exercised, under paragraph (a) except at the request of the person or authority by whom the code of standards in question was issued; and
- (c) that failure to comply with the statement of principles may result in the imposition of civil penalties under section 147.

(8) The Authority may, at any time, amend a statement or code of standards issued under this section.

## **28. Modification or waiver of statement of principle**

- (1) The Authority may on the application of any person
  - (a) modify a statement of principles issued under section 27 to adapt it to the applicant's circumstances or to any particular kind of business carried on by the applicant; or
  - (b) exempt the applicant from compliance with any such statement of principles, generally or in relation to any particular kind of business carried on by the applicant.

(2) The Authority shall not amend a statement of principles or exempt any person from complying with the statement unless it appears to the Authority

- (a) that compliance with the statement of principles in question would be unduly burdensome for the applicant, having regard to the benefit which compliance would confer on investors; and
- (b) that the exercise of those powers will not result in any undue risk to investors.

(3) The Authority may exercise its powers under this section unconditionally or subject to conditions; and section 27 shall apply in the case of failure to comply with a condition as in the case of failure to comply with a statement of principles.

**29. Guidelines and Regulatory Notices**

(1) The Authority may issue guidelines or regulatory notices for the purpose of providing—

- (a) instruction to approved persons on the nature of their obligations under this Act and the procedures to be observed for the purpose of compliance with the requirements of this Act and of best practice in relation to the performance of transactions, disclosure, record keeping, maintaining of accounts and reporting to the Authority;
- (b) guidance to investors in relation to the operation of the securities markets and the nature of transactions;
- (c) guidance to approved persons as the Authority may consider appropriate;
- (d) for the regulation of capital markets activities and products subject to the assessment of the extent to which they appropriately cater for—
  - (i) efficient, orderly and fair operation of the segment, product or intermediaries;
  - (ii) adequate provisions for risk management and controls on market misfeasance;
  - (iii) the proper protection of investor interests and appropriate level of disclosure; and
  - (iv) a facilitative environment for transparent operations;
- (e) the operation of any provision of this Act or any other legislation vesting responsibility in the Authority; and
- (f) any matter relating to any power, duty or function conferred or imposed on the Authority under this Act or any other legislation administered by the Authority.

(2) The Authority may publish guidelines and regulatory notices issued under subsection (1) in such manner as the Authority may consider appropriate.

**30. Publication of information**

(1) The Authority may publish information, bulletins and reports, or cause to be published the information, bulletins or reports, in such form and manner as it considers appropriate with respect to—

- (a) the operation of this Act, the Collective Investment Schemes Act, the Securities Central Depositories Act and any Act for

whose administration the Authority is responsible, including in particular the rights of investors, the duties of an approved person or key persons and the steps to be taken for enforcing those rights and complying with those duties;

- (b) any matters relating to the functions of approved persons or key persons under this Act, the Securities Central Depositories Act or under the Collective Investment Schemes Act or any Act for whose administration the Authority is responsible; and
- (c) any other matter which appears to the Authority to be desirable for the protection of investors.

(2) The Authority may offer for sale information, bulletins and reports published under this section and may, if it thinks fit, charge a reasonable fee for information given under this section.

### **31. Public statements**

Where the Authority determines, under section 21, that a licensed person has contravened any provision of this Act, the Authority may publish a statement to that effect, stating any action that the Authority may have taken in respect of that contravention.

## **PART III—BOARD OF DIRECTORS**

### **32. Board of Directors of Authority**

(1) The Authority shall have a Board of Directors consisting of eleven persons appointed by the Minister as follows—

- (a) six persons from the private sector who have expertise in law, finance, banking, business, accounting, economics, investment or a related field from the relevant bodies prescribed in Schedule 2 to this Act;
- (b) the Permanent Secretary and Secretary to the Treasury of the Ministry responsible for finance or a person that is deputed in writing;
- (c) the Governor of the Bank of Uganda or a person deputed in writing;
- (d) the Solicitor General or a person deputed by him or her in writing;
- (e) the Registrar of Companies or a person deputed by him or her in writing; and



(f) the Chief Executive Officer of the Authority.

(2) The Minister shall appoint a Chairperson from among the members appointed under subsection (1)(a).

(3) The members of the Board shall be persons of high moral character and proven integrity and shall be fit and proper persons as prescribed in Schedule 3 to this Act.

(4) The Minister shall, in appointing members of the Board of directors, stagger the tenure of office of members in order that the tenure of office does not expire at the same time.

(5) The Minister shall, in appointing members of the Board, ensure that there is a balance of gender, skills and experience among the members of the Board.

### **33. Tenure of office of members of Board**

(1) A member of the Board, other than the Chief Executive Officer or a person appointed by virtue of his or her office shall hold office for five years and shall be eligible for re-appointment for one more term.

(2) A member of the Board may, at any time, resign his or her office in writing addressed to the Minister.

(3) A member of the Board may be removed from office by the Minister—

- (a) for inability to perform the functions of his or her office arising from infirmity of body or mind;
- (b) for misbehaviour or misconduct;
- (c) for incompetence;
- (d) if the member is bankrupt or insolvent;
- (e) if the member is convicted of an offence involving dishonesty, fraud or moral turpitude;
- (f) if the member is absent without prior permission of the Chairperson, or without reasonable cause to the satisfaction of the Minister, for more than four consecutive meetings of the Board, or is absent from Uganda for more than twelve consecutive months; or

- (g) if the member is no longer fit and proper as prescribed in Schedule 3 to this Act.

(4) Where a member of the Board resigns, dies, is removed from office or ceases to be a member of the institution or body which he or she represents on the Board, the Chairperson shall notify the Minister of the vacancy and the Minister shall appoint another person to hold the office for the unexpired portion of the member's term of office.

(5) Where the member of the Board referred to in subsection (4) is the Chairperson, the Secretary to the Board shall notify the Minister of the vacancy and the Minister shall appoint another person, being a member of the Board, to hold office for the unexpired portion of the Chairperson's term of office.

#### **34. Remuneration of members of Board**

The Chairperson and members of the Board shall be paid such remuneration and allowances as may be determined by the Minister.

#### **35. Functions of Board**

- (1) The Board shall be responsible for the general direction and supervision of the Authority.
- (2) For the purposes of subsection (1), the Board shall—
  - (a) review and approve strategic and operating plans, budgets, reports and audited financial statements of the Authority;
  - (b) oversee the operations of the Authority to ensure competent and prudent management, planning, accounting and compliance with statutory and contractual obligations;
  - (c) control, supervise and administer the assets of the Authority;
  - (d) approve organisational structures of the Authority;
  - (e) establish and approve rules of procedure for appointment, termination, discipline and terms and conditions of the Chief Executive Officer and the staff of the Authority;
  - (f) monitor and supervise the implementation of this Act and other laws and regulations enforced by the Authority;
  - (g) formulate principles and issue guidelines for the guidance of the securities industry;

- (h) create the necessary environment for the orderly growth and development of the capital markets;
- (i) advise the Minister on all matters related to this Act and the developments in the capital markets; and
- (j) perform any other function conferred or imposed by this Act or as may be necessary or incidental to giving full effect to this Act.

(3) The Board may delegate any of its functions to a committee of the Board as it may deem necessary.

(4) The Board shall in the performance of its functions, be responsible to the Minister.

### **36. Secretary to Board**

(1) The Board shall appoint a Secretary to the Board on such terms and conditions as may be determined by the Board.

(2) The Secretary shall report to the Board through the Chief Executive Officer.

### **37. Committees of Board**

(1) The Board may appoint committees to assist the Board in the performance of its functions.

(2) A committee appointed under this section may comprise members of the Board and persons who are not members of the Board.

(3) A committee appointed under this section, shall perform such functions as the Board may assign to it.

(4) The Board shall prescribe the procedure for the proceedings of the committee.

(5) A committee appointed under this section may, with the approval of the Board, co-opt a person to assist it in the performance of its functions but the person co-opted shall not have a right to vote on any matter coming before the committee for decision.

**38. Meetings of Board**

Schedule 4 to this Act shall govern the proceedings of the Board.

PART IV—STOCK EXCHANGES AND COMMODITIES  
EXCHANGES

**39. Establishment, *etc.* of stock market**

A person shall not carry on the business of a securities exchange or a commodities exchange unless that person has been approved by the Authority as a securities exchange or commodities exchange.

**40. Power of Authority to approve stock exchange**

(1) Application for approval as a stock exchange or commodities exchange may be made to the Authority in the prescribed form and manner and shall be accompanied by the prescribed fees.

(2) The applicant shall, upon being granted approval under this Act, pay an annual fee prescribed by the Authority.

(3) No approval shall be granted to any person to operate as a stock exchange or commodities exchange other than a body corporate.

(4) The Authority may by notice in writing, approve a person as a stock exchange or commodities exchange if it is satisfied that—

- (a) the applicant is a limited liability company whose liability is limited by shares;
- (b) that the applicant's board of directors is constituted in a manner prescribed by the Authority; and
- (c) the applicant has made and adopted rules in compliance with the Act and any regulations made under the Act.

(5) Every securities exchange shall establish and keep a fidelity fund which shall be administered by the Authority on behalf of the stock exchange.

(6) Nothing in this section precludes the Authority from appointing any person who is knowledgeable about the securities industry and who is not associated with a stockbroker or broker or dealer to be on the council of

a stock exchange or commodities exchange to represent the public interest; and a person so appointed—

- (a) shall have the same rights, powers, duties and obligations, liberties and privileges as any other member of the council of the stock exchange or commodities exchange;
- (b) shall hold office for a period specified by the Authority, which may at any time revoke the appointment; and
- (c) shall be paid by the Authority.

(7) The Authority shall publish in the *Gazette* and in one daily newspaper with national circulation notice of approval for the establishment of a stock exchange or commodities exchange and every cancellation or suspension of any approval.

(8) Where the Authority is of the opinion that an approval granted to a stock exchange or commodities exchange under subsection (4) should be withdrawn in the public interest, it may serve on the council of the stock exchange or commodities exchange a written notice; and after giving an opportunity to the council to be heard on the matter, it may cancel the approval made under subsection (4), except that the cancellation shall not take effect until after the expiration of three months from the date on which the cancellation is published in the *Gazette* and in one daily newspaper.

(9) With effect from the date on which a notice of cancellation of approval under subsection (8) is published in the *Gazette*, the council shall ensure that trading on the stock exchange or commodities exchange ceases.

(10) During the three months between the publication and the effective date of the cancellation, the council shall take steps to wind up the business of the stock exchange or commodities exchange.

(11) An approved securities exchange or commodities exchange shall comply with requirements of the Authority and shall pay an annual fee to the Authority at a rate determined by the Authority.

#### **41. Authority to approve amendments to rules**

(1) Where an amendment is made, whether by way of rescission, alteration or addition to the rules of a stock exchange or commodities exchange or the listing rules of a stock exchange or commodities exchange,

the council of the stock exchange or commodities exchange shall forward a written notice of it to the Authority for approval.

(2) The Authority shall give notice in writing to the securities or commodities exchange concerned that it approves the amendment or that it disapproves the whole or any specified part of the amendment and the Authority shall indicate in the notice to the securities or commodities exchange the date on which the approved amendment rules will take effect.

(3) The securities or commodities exchange shall notify the public about the approved amendment rules.

(4) Nothing in this section precludes the Authority, after consultation with the council of a stock exchange or commodities exchange, from amending the rules or the listing rules of an approved stock exchange or commodities exchange by written notice specifying the amendments and the dates when those amendments shall have force and effect; but the Authority may dispense with consultation if it considers it necessary to do so for the protection of investors.

(5) Any notice under this section may be served personally or by post.

#### **42. Stock exchange or commodities exchange to assist Authority in exercise of its disciplinary powers**

(1) A stock exchange or commodities exchange shall provide such assistance to the Authority as the Authority reasonably requires for the performance of its functions and duties, including the furnishing of such returns and providing such information relating to the business of the stock exchange or commodities exchange or in respect of such dealing in securities or any other specified information as the Authority may require for the proper administration of this Act.

(2) Where an approved stock exchange or commodities exchange reprimands, fines, suspends, expels or otherwise takes disciplinary action against a member of a stock exchange or commodities exchange, it shall, within seven days, give to the Authority in writing, particulars of the name of the member, the reason for and nature of the action taken, the amount of the fine, if any, and the period of the suspension, if any.

(3) Any person aggrieved by the decision of the approved stock exchange or commodities exchange, may appeal to the Authority.

(4) The Authority may review any disciplinary action taken by an approved stock exchange or commodities exchange and may affirm or set aside a decision of the approved stock exchange or commodities exchange after giving the member and the approved stock exchange or commodities exchange an opportunity to be heard.

(5) Nothing in this section precludes the Authority in a case where an approved stock exchange or commodities exchange fails to act against a member of the stock exchange or commodities exchange, from suspending, expelling or otherwise disciplining a member of the approved stock exchange or commodities exchange except that the Authority shall, before suspending, expelling or disciplining a member, give the member and the approved stock exchange or commodities exchange an opportunity to be heard.

(6) Any person aggrieved by the decision of the Authority under this section may, within thirty days after notification of the decision, appeal to the Tribunal.

(7) Any person aggrieved by the decision of the Tribunal may within thirty days after notification of the decision appeal to the High Court on a point of law.

**43. Powers of court to order observance or enforcement of rules of stock exchange or commodities exchange**

(1) Where a person under an obligation to comply with, observe, enforce or give effect to the rules or listing rules of a stock exchange or commodities exchange fails to perform the duty, the Tribunal may, on the application of the Authority, a stock exchange or commodities exchange or person aggrieved by the failure, and after giving to the person against whom the order is sought an opportunity of being heard, make an order giving directions to that person to perform the duty.

(2) For the purpose of subsection (1)—

(a) a body corporate that has been admitted to any official list of a stock exchange or commodities exchange and has not been removed from that official list; or

- (b) a person associated with a body corporate that has been admitted to any official list of a stock exchange or commodities exchange and has not been removed from that official list,

is under an obligation to comply with, observe and give effect to the listing rules of that stock exchange or commodities exchange to the extent to which those rules apply in relation to that body corporate or a person associated with that body corporate.

#### **44. Power of Authority to issue directions to stock exchange or commodities exchange**

(1) The Authority may, where it appears to it to be in the public interest, issue directions to a stock exchange or commodities exchange—

- (a) with respect to trading on or through the exchange facilities of that stock exchange or commodities exchange or with respect to any security listed on that stock exchange or commodities exchange;
- (b) with respect to the manner in which a stock exchange or commodities exchange carries on its business, including the manner of reporting off-market purchases;
- (c) with respect to the management of the securities exchange or commodities exchange, including the removal of members of the governing council of the securities exchange or commodities exchange and the appointment in their place of persons designated by the Authority on such terms and conditions as the Authority may specify; or
- (d) with respect to any other matters which the Authority considers necessary for the effective administration of this Act,

and the stock exchange or commodities exchange shall comply with any such direction.

(2) A stock exchange or commodities exchange which, without reasonable excuse, fails to comply with a direction given under subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding fifty currency points and to a further fine of two and half currency points for each day on which the non-compliance continues after conviction.

(3) A stock exchange or commodities exchange aggrieved by any direction of the Authority under subsection (1) may appeal to the Tribunal within thirty days of the date of the direction.



(4) Where the Authority is satisfied that an executive officer of a stock exchange or commodities exchange—

- (a) has wilfully contravened this Act or any regulations made under it or the rules of a stock exchange or commodities exchange; or
- (b) has without reasonable justification or excuse, failed to enforce compliance with this Act or the regulations by a member of the stock exchange or commodities exchange or a person associated with that member,

the Authority may, if it thinks necessary in the public interest or for the protection of investors, and after giving the executive officer an opportunity of being heard, direct by notice in writing that the stock exchange or commodities exchange shall remove from office or employment the executive officer; and the stock exchange or commodities exchange shall comply with the direction or the Authority may instead censure the executive officer.

**45. Power of Authority to prohibit trading in particular securities**

(1) Without prejudice to the general effect of section 44, where the Authority is of the opinion that it is necessary to prohibit trading in particular securities of, or made available by, a body corporate on the stock market of a stock exchange or commodities exchange in order to protect persons buying or selling the securities or to protect the interests of the public, the Authority may give notice in writing to the stock exchange or commodities exchange stating that it has formed that opinion and setting out its reasons.

(2) If, after the receipt of the notice, the stock exchange or commodities exchange does not take action to prevent trading in the securities to which the notice relates on the stock market of the stock exchange or commodities exchange and the Authority is still of the opinion that it is necessary to prohibit trading in those securities on that stock market, the Authority may, by notice in writing to the stock exchange or commodities exchange, prohibit trading in those securities on that stock market during a period, not exceeding fourteen days, as may be specified in the notice.

(3) Where the Authority gives a notice to a stock exchange or commodities exchange under subsection (2), the Authority shall—

- (a) at the same time send a copy of the notice to the body corporate together with a statement setting out the reasons for giving the notice; and

(b) as soon as practicable, furnish to the Minister a written report setting out the reasons for giving the notice and send a copy of the report to the stock exchange or commodities exchange.

(4) Where the Authority gives a notice under subsection (3), the body corporate may refer the matter to the Tribunal.

(5) A stock exchange or commodities exchange which permits trading in securities on its stock market in contravention of a notice under subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding fifty currency points and to a further fine not exceeding five currency points for each day during which the contravention continues.

#### **46. Power to close or suspend trading**

(1) Subject to subsections (2) and (3), the Authority may, after consultation with an approved securities exchange, order that the securities exchange be closed for transactions or dealings in securities for a period of not more than three trading days.

(2) The Authority may make an order under subsection (1) on the ground that, in the opinion of the Authority, the orderly transaction of business on the securities exchange is likely to be adversely affected due to—

- (a) an emergency or natural disaster in Uganda;
- (b) an economic or financial or other crisis, whether in Uganda or elsewhere; or
- (c) an actual or threatened major market manipulation or disruption.

(3) The Authority may extend the duration of an order made under subsection (1).

(4) A dealer, stock broker or representative who deals in securities listed on a securities exchange while an order under subsection (1) or (3) is in force, being an order that has been notified to the securities exchange commits an offence and is liable, on conviction, to a fine not exceeding three hundred currency points or to imprisonment for a term not exceeding three years, or both.

(5) Where the Authority issues an order under subsection (1) or (3), notice of the order shall be published in the *Gazette* and in two daily newspapers having national circulation in Uganda.

#### **47. Approved securities exchange to keep records and information**

(1) An approved securities exchange shall keep or cause to be kept such records or information in sufficient detail, whether such records or information are maintained in electronic form or manual form, so as to show particulars of every bid or offer made or deal executed on the securities exchange.

(2) An approved securities exchange shall keep records showing the business of trading in securities including daily, weekly, monthly, quarterly and annual transactions and the record or information shall be subject to inspection at all reasonable times by the Authority.

(3) The records referred to in this section shall be kept for at least ten years from the date of the transaction to which they relate except that where a transaction is the subject of an investigation by a court or the Authority the records shall be kept until the investigation is completed if the investigation continues after the expiration of the ten years.

(4) A securities exchange that fails to comply with the provisions of this section commits an offence and on conviction every director shall be liable to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding two years, or both.

(5) The requirement in this section that electronic records be maintained includes a requirement to continue to provide equipment that enables access, reading and printing of those electronic records.

#### **48. Promotion and flotation of securities**

(1) A person shall not carry on or hold himself or herself out as carrying on the business of organising the promotion and flotation of securities to the public on behalf of an issuer, unless the person is approved by the Authority for the purpose of carrying on such business.

(2) The Authority may grant such approval on such terms and conditions as the Authority may require, including the condition that the approval is limited to a particular promotion or flotation.

(3) Any person who acts in breach of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding three hundred currency points or to imprisonment for a term not exceeding three years, or both.

#### **49. Other prescribed activities**

(1) Without prejudice to section 149, the Authority may make regulations prescribing that certain activities relating to securities business are to be approved by the Authority.

(2) Where regulations are made under subsection (1), an activity prescribed under the regulations shall not be conducted without the approval of the Authority.

(3) Section 48 shall apply to an activity prescribed under this section as if the activity was one of the activities covered by that section.

### **PART V—REQUIREMENTS FOR APPROVALS AND LICENCES**

#### **50. Requirements for approvals and licences**

(1) A person shall not act in any of the following capacities unless that person is approved to carry out that activity under this Act as—

- (a) a stock broker;
- (b) a dealer;
- (c) an authorised depository;
- (d) a commodities exchange;
- (e) a commodities broker;
- (f) a stock exchange;
- (g) a transaction adviser;
- (h) an investment adviser;
- (i) a fund manager;
- (j) a representative;
- (k) an authorised registrar;
- (l) a custodian;

- (m) a credit rating agency;
- (n) an underwriter;
- (o) an investment house;
- (p) a venture capital fund; or
- (q) a market adviser.

- (2) Notwithstanding the prohibition in subsection (1)—
  - (a) a licensed stock broker may provide investment advice in the course of, and incidental to the business of dealing in securities;
  - (b) a licensed fund manager may provide investment advice in the course of and incidental to the conduct of the business of fund management; and
  - (c) in the case of a person referred to in subsection (1)(g) and (n), the Authority may approve a person to carry out the form of activity referred to in those paragraphs in relation to a specific transaction designated by the Authority.

(3) The Authority may require, as a condition for the grant or renewal of a licence for a stock broker or fund manager that the stock broker or fund manager provides investment advice only on such terms and conditions as the Authority may require.

(4) A person approved by the Authority to carry on business shall comply with all the requirements of the Authority and, shall pay an annual fee to the Authority at a rate prescribed by the Authority.

(5) Nothing in this section shall be construed as limiting the power of the Authority to approve, register or license any other person operating in any other capacity which has a direct impact on the attainment of the objectives of this Act.

(6) Any person who acts in breach of this section commits an offence and is liable, on conviction, to a fine not exceeding three hundred currency points or to imprisonment for a term not exceeding three years, or both.

## **51. Application for licence or renewal of licence**

(1) An application for a licence or for the renewal of a licence shall be made to the Authority in the prescribed form and manner and shall be accompanied by the prescribed fee, to be paid in the manner specified by the

Authority and, in the case of an application for renewal of a licence, shall be made not later than thirty days before the expiration of the licence.

(2) The Authority may require an applicant to supply it with such further information as it considers necessary in relation to the application.

(3) The Authority shall not refuse to grant or renew a licence unless it has given the applicant or the holder of the licence an opportunity of being heard.

## **52. Additional licensing requirements**

(1) The Authority shall, except for a commodities broker, only authorise a body corporate to conduct the activities specified in section 50(1).

(2) An approved person shall, meet such minimum financial requirements, educational qualifications and other requirements as may be determined by the Authority.

(3) A licence to act as a representative shall only be granted to an individual.

(4) Subject to section 51(3) and any regulations made under this Act, the Authority shall refuse an application for the grant of approval or renewal of a licence if the Authority has reason to believe that the applicant is not of good reputation or character or is not a fit and proper person.

## **53. Grant of representative's licence**

Subject to section 51(3) and regulations made under this Act, the Authority shall grant or renew a representative's licence if after consideration of the application it considers that the applicant will perform the duties of the holder of a representative's licence efficiently, honestly and fairly.

## **54. False statements**

Any person who, in connection with an application for a licence or for the renewal of a licence, wilfully and knowingly makes a statement which is false or misleading in a material particular or wilfully omits to state any matter or thing without which the application is misleading in a material respect

commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding eight years, or both.

**55. Power of Authority to inquire into securities transactions in relation to holder of licence**

(1) In deciding whether an approved person or a representative of the approved person shall hold a licence under this Act, the Authority may inquire into any transactions involving the purchase or sale of securities entered into by that person, whether directly or indirectly, during any period of twelve months preceding the application for a licence or renewal of a licence, in this section referred to as the relevant period, to ascertain if that person has in the transaction or series of transactions used dishonest, unfair or unethical methods or trading practices, whether those methods or trading practices constitute an offence under this Act or not.

(2) For the purposes of subsection (1), the Authority may, in such form and within such time as it may specify by notice in writing, require an approved person or a representative of the approved person to submit detailed information of all or any transactions involving the purchase or sale of securities, whether those transactions were completed during the relevant period before or after the commencement of this Act.

(3) A person who, without reasonable excuse, fails or refuses to submit information to the Authority within the time specified in the notice referred to in subsection (2) or who gives false or misleading information shall, in addition to any other penalty that may be imposed under this Act, be liable in the case of an application for renewal of a licence, to have the licence revoked under section 62 and in the case of first application for a licence, to have the application refused.

**56. Power of Authority to impose conditions or restrictions**

(1) The Authority may grant or renew a licence subject to such conditions or restrictions as it thinks fit; and the Authority may, at any time by written notice to a licence holder, vary any condition or restriction in relation to the licence.

(2) Without limiting the general effect of subsection (1), the Authority may, in granting or renewing an investment adviser's licence, impose a condition or restriction as to the class of business that the investment adviser may carry on, including a condition or restriction that—

- (a) the investment adviser shall only carry on the class of business of advising others concerning securities;
- (b) the investment adviser shall only carry on the class of business of issuing or promulgating analyses in reports concerning securities;
- (c) the investment adviser shall only carry on a class of business involving the management of a portfolio of securities on behalf of clients for investment purposes; or
- (d) the investment adviser shall carry on any of the classes of business in paragraph (a), (b) and (c) of this subsection in combination with each other.

(3) The Authority may also, by written notice to a licence holder suspend, cancel, restrict or impose terms and conditions on the right of the licence holder—

- (a) to call at any residence; or
- (b) to telephone any residence in Uganda for the purpose of dealing in any securities.

(4) Any person who contravenes any condition of or restriction in the licence commits an offence.

(5) In this section, "residence" includes any building or part of a building where the occupant resides either permanently or temporarily.

#### **57. Deposit to be lodged in respect of broker or dealer's licence**

(1) The Authority shall not grant or renew a broker or dealer's licence unless the applicant has lodged with the Authority at the time of the application for the licence, a deposit prescribed by the Authority in respect of the licence.

(2) A deposit required under subsection (1) shall be in cash or in such other form as the Authority may in any particular case direct.

(3) All amounts paid under this section shall be deposited in a commercial bank prescribed by the Authority.



(4) A deposit lodged under subsection (1) shall be applied by the Authority subject to and in accordance with regulations made under this Act.

### **58. Period of licence**

(1) Subject to subsection (2), a licence shall expire at the end of one year from the date of issue.

(2) A licence renewed in accordance with this Part shall continue in force for one year from the date of the renewal.

### **59. Notification of change of particulars**

An approved person shall notify the Authority of any change in the particulars of the approved person or any matter relating to the business of the approved person in a manner prescribed by the Authority.

### **60. Register of licence holders**

(1) The Authority shall keep in such form as it thinks fit, a register of approved person, specifying—

(a) in relation to each holder of a broker's or a dealer's or investment adviser's licence—

- (i) the name of the broker, dealer or investment adviser;
- (ii) the address of the principal place of business at which the broker, dealer or investment adviser carries on the business to which the licence relates; and
- (iii) the name of the compliance officer; and

(b) in relation to each holder of a representative's licence—

- (i) the name of the representative;
- (ii) the name of the broker or dealer or investment adviser in relation to whom the licence was issued; and
- (iii) where the business of that broker or dealer or investment adviser is carried on under a name or style other than the name of the broker or dealer or investment adviser, the name or style under which that business is carried on.

(c) Any person may, on payment of the prescribed fee, inspect and take extracts from the register kept under subsection (1).

**61. Grounds for approval of licence**

- (1) The Authority shall, before granting a licence, satisfy itself—
  - (a) that the applicant is a company or a body corporate, with such minimum share capital as the Authority may prescribe, or is duly constituted as a collective investment scheme;
  - (b) that none of the directors of the applicant company—
    - (i) has been declared bankrupt;
    - (ii) has been a director of a company that has been denied a licence or approval under this Act or equivalent legislation in any other jurisdiction; or
    - (iii) has been a director of a company providing financial services whose licence has been revoked by the appropriate authority;
  - (c) that management and the board of the applicant have satisfied such minimum qualification requirements as prescribed by the Authority;
  - (d) in the case of a stockbroker, dealer or any other person prescribed by the Authority, that the applicant company has lodged a security or deposit in such sum as may be determined by the Authority or an equivalent bank guarantee or bond with the securities exchange of which it is a member or with the Authority or other person approved by the Authority as the case may be;
  - (e) that the applicant has the necessary administrative capacity to carry on the business for which the approval is required;
  - (f) in the case of an application for a stockbroker's licence, that the applicant shall carry on business solely on behalf of its clients;
  - (g) in the case of an application for a dealer's licence, that the applicant shall carry on business solely on the applicant's own behalf; and
  - (h) that the persons engaged or to be engaged in the position of executive director or other capacity are fit and proper persons.
- (2) A licensed stockbroker or dealer may, on fulfilment of all requirements and payment of the admission fee approved by the Authority, be admitted as a trading member of a securities exchange.
- (3) A stockbroker or dealer whose licence is not renewed under section 51 or whose licence is revoked under section 62 shall immediately cease to be a member of a securities exchange.

**62. Revocation or suspension of licence or approval**

- (1) A licence shall be taken to be revoked, in the case of
  - (a) an individual, if the individual dies;
  - (b) a body corporate, if it is wound up.
  
- (2) The Authority may revoke a licence—
  - (a) in the case of a licensed person who is an individual—
    - (i) if a levy of execution in respect of him or her has not been satisfied;
    - (ii) if he or she ceases to carry on the business for which he or she was licensed;
    - (iii) if he or she has been adjudged bankrupt in any jurisdiction;
    - (iv) if, in the case of a representative, the licence of the broker or dealer or investment adviser or fund manager in relation to whom the licence was granted is revoked;
    - (v) if the Authority has reason to believe that the licensed person has not performed his or her duties efficiently, honestly or fairly;
    - (vi) if he or she is convicted of an offence involving fraud or dishonesty;
    - (vii) if the licensed person contravenes any condition or restriction applicable in respect of the licence in any other provision of this Act; or
    - (viii) if the person ceases to be a fit and proper person as prescribed in Schedule 3 to this Act;
  - (b) in the case of a body corporate or a partnership—
    - (i) if it is being or will be wound up or dissolved;
    - (ii) if a levy of execution in respect of it has not been satisfied;
    - (iii) if a receiver or a receiver and manager has been appointed, whether by the court or creditors, in respect of the body corporate's property;
    - (iv) if it has entered into any composition or arrangement with its creditors;
    - (v) if it ceases to carry on the business for which it was licensed;
    - (vi) if the Authority has reason to believe that the licensed person or any of its directors or employees has not performed the duties of the licensed person efficiently, honestly or fairly;

- (vii) if the licensed person contravenes any conditions or restrictions applicable in respect of the licence or any provision of this Act; or
- (viii) if the Authority has reason to believe that any of the directors or employees required to perform duties in connection with holding of the licence have ceased to be fit and proper persons as prescribed in Schedule 3 to this Act.

(3) In a case to which subsection (2) applies, the Authority may, instead of revoking a licence, suspend the licence for a specific period and may at any time revoke the suspension.

(4) The Authority shall not revoke or suspend a licence under subsection (2) or (3) without first giving that person an opportunity of being heard.

(5) A person whose licence is revoked under this section shall, for the purposes of this Part, be taken not to be licensed from the date that the Authority revokes or suspends the licence.

(6) A revocation or suspension of a licence of a person shall not operate so as to—

- (a) avoid or affect any agreement, transaction or arrangement relating to the trading in securities entered into by that person, whether the agreement, transaction or arrangement was entered into before or after the revocation or suspension of the licence; or
- (b) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

### **63. Cessation of representative licence**

An approved person shall not carry on its licensed activity without having in its employment at least a representative.

### **64. Appointment of statutory manager**

(1) The powers conferred by subsection (3) may be exercised, in the following circumstances—

- (a) if the licence of a stock broker, dealer, securities central depository, central counter party, clearing house or a fund manager

- is suspended or revoked under section 62 or the approval of a securities exchange is suspended or revoked under section 40;*
- (b) *if a petition is filed, or a resolution proposed, for the winding up of a licensed person or of an approved securities exchange or if a receiver or similar officer is appointed in respect of the licensed person or securities exchange or in respect of all or any part of its assets.*
- (2) *Where the Authority discovers whether on inspection or otherwise, or becomes aware of any fact or circumstance which, in the opinion of the Authority, warrants the exercise of its power in the interest of investors, the Authority shall give the licensed person or securities exchange as the case may be, an opportunity to be heard prior to the exercise of the power.*
- (3) *Notwithstanding the provisions of any other written law, in any case to which this section applies, the Authority may apply to the court—*
- (a) *for the appointment by the court of a competent person, in this Act referred to as “a statutory manager” to assume the management, control and conduct of the affairs and business of a licensed person or approved securities exchange and to exercise all the powers of a licensed person to the exclusion of its board of directors, including the use of its corporate seal;*
- (b) *for an order removing any officer or employee of the licensed person or approved securities exchange who, in the opinion of the Authority, has caused or contributed to any contravention of this Act or any regulations made under it or to any deterioration in the financial stability of the licensed person or approved securities exchange, or has been guilty of conduct detrimental to the interests of investors;*
- (c) *for the appointment by the court of a competent person familiar with the business of the licensed person or approved securities exchange to its board of directors to hold office as a director and a person appointed shall not be removed from office without the approval of the court.*
- (4) *Notwithstanding any other law, in any case to which this section applies the Authority may, by notice in the Gazette, revoke or cancel any existing power of attorney, mandate, appointment or other authority by the licensed person in favour of any officer or employee or any other person.*

(5) In subsections (3), (4), (7), (8), (10), (11), (12) and (13) “licensed person” means a licensed stock broker, dealer or licensed fund manager and includes an approved stock exchange.

(6) The appointment of a statutory manager shall be for a period not exceeding six months, as shall be specified in the instrument of appointment issued by the court and may be extended by the court upon the application of the Authority, if the extension appears to the court to be justified, and any such extension shall be notified to all interested parties.

(7) A statutory manager shall, upon assuming the management, control and conduct of the affairs and business of a licensed person, discharge duties of statutory manager with diligence and in accordance with sound investment and financial principles and in particular, with due regard to the interests of the investors and customers of licensed persons.

- (8) The responsibilities of a statutory manager include—
- (a) tracing and preserving all the property and assets of the licensed person or of its customers;
  - (b) recovering all debts and other sums of money due to and owing to the licensed person;
  - (c) evaluating the capital structure and management of the licensed person and recommending to the Authority any restructuring or reorganisation which the statutory manager considers necessary and which, subject to the provisions of any other written law, may be implemented by the statutory manager on behalf of the licensed person;
  - (d) entering into contracts in the ordinary course of the business of the licensed person; and
  - (e) obtaining from any officer or employee of the licensed person, any documents, records, accounts, statements or information relating to its business.

(9) The statutory manager shall, once in every month, furnish the Authority with, and file with the court and provide all interested parties with, a report of the activities of statutory manager during the preceding month, in such form as may be prescribed by the Authority.

(10) Where an officer or employee of the licensed person removed under subsection (3)(b) is aggrieved by the decision, he or she may, within

thirty days of the decision, appeal to the High Court, and the High Court may confirm, reverse or modify the decision and make any other order in the circumstances as it thinks just; and pending the determination of the appeal, the order of removal shall remain in effect.

(11) The Authority, an officer or employee of the Authority, a statutory manager or any other person appointed, designated or approved by the Authority under this Act is not liable, in respect of any act or omission done in good faith by such officer, employee, statutory manager or other person in the execution of the duties undertaken by him or her, except that in the case of loss caused by the statutory manager to the licensed person by reason of reckless conduct in the management of the business and affairs of the licensed person, the statutory manager is liable to the same extent as a receiver in similar circumstances.

(12) Where it appears to the statutory manager that the business of the licensed person is insolvent and there is no reasonable prospect of rehabilitating the business by way of any restructuring under subsection (8) (c) or otherwise, and that it is just and equitable to do so in the interest of all interested parties, the statutory manager may, after consultation with the Authority, petition the court for the winding up of the licensed person.

(13) All fees, expenses properly incurred by the statutory manager including the costs of the application to the court shall be payable out of the assets of the licensed person in priority to all other claims.

## **65. Operation pending renewal, *etc.* of licence**

(1) Where a person who holds a licence issued under this Act has, before the expiration of the licence, applied for a renewal of the licence and it has not been issued, the licence shall, until it is renewed or the application for the renewal of it is refused or withdrawn, be taken to continue in force.

(2) If, thirty days before the date of expiration of the licence, the licensed person fails to provide the Authority a duly made application or has within the time permitted or specified by the Authority failed to provide any further information required by the Authority for the purpose of renewal of the licence, the application shall be taken to be withdrawn.

(3) The Authority may, on application being made to it, and on proper cause being shown, reinstate an application for renewal that is taken to be withdrawn under subsection (2) and may impose such terms and conditions as the Authority may consider necessary.

(4) The Authority shall make its determination on an application for renewal of a licence within thirty days after receipt of the application.

## **66. Appeals**

(1) Any person aggrieved by the refusal of the Authority to grant or renew a licence, or the decision of the Authority to revoke or impose conditions on or suspend a licence, may, within thirty days after the decision of the Authority appeal to the Tribunal.

(2) Any person aggrieved by a decision of the Tribunal under subsection (1) may within thirty days from the decision of the Tribunal, appeal to the High Court on a point of law.

## PART VI—RECOGNITION OF SELF-REGULATORY ORGANISATIONS

### **67. Self-regulatory organisation**

(1) An organisation which intends to operate as a self-regulatory organisation shall apply to the Authority for recognition as a self-regulatory organisation.

(2) An application made under subsection (1) shall specify the functions and powers that the entity is seeking to exercise, upon recognition.

(3) The Authority may, in respect of an application under subsection (1), subject to such terms and conditions as it considers necessary, by notice in the *Gazette*, declare an organisation to be a recognised self-regulatory organisation where the Authority is satisfied that the organisation

- (a) has a constitution and internal rules and policies consistent with this Act or related legislation;
- (b) has the capacity and financial and administrative resources necessary to carry out its functions as a self-regulatory



organisation; including dealing with a breach of the law or of any other applicable standards or guidelines;

- (c) is a fit and proper person;
- (d) has competent personnel for the carrying out of its functions; and
- (e) satisfies such other criteria as may be specified by the Authority.

(4) Any person who operates, or purports to operate as a self-regulatory organisation without being recognised as such by the Authority commits an offence.

(5) The Authority may, in writing, delegate any of its powers or functions to a self-regulatory organisation.

- (6) A delegation under subsection (5), shall specify—
  - (a) the function or power delegated to the self-regulatory organisation;
  - (b) the extent of disciplinary powers delegated and the scope of sanctions that may be imposed;
  - (c) the terms and conditions upon which the power or function has been delegated and may be exercised;
  - (d) the persons authorised to exercise the delegation on behalf of the self-regulatory organisation;
  - (e) the manner in which a self-regulatory organisation shall submit periodic reports to the Authority in respect of the exercise of the delegated power or function; and
  - (f) any other matter as the Authority may prescribe.

## **68. Rules of self-regulatory organisation**

(1) A self-regulatory organisation shall with the approval of the Authority, make rules relating to the matters for which it has regulatory or supervisory functions, including any sanctions and disciplinary powers to be exercised in connection with the functions delegated to it.

- (2) Rules made under subsection (1) shall provide for—
  - (a) management structures and shareholding rights of the self-regulatory organisation, taking into consideration the interests, rights and liabilities of its members, consumers, investors and users of its services;
  - (b) membership and conditions for approval and admission of members;

- (c) the procedure for dispute resolution between members, users, investors and their clients and the right of appeal to the Authority or other relevant primary regulator; and
- (d) procedures with respect to reporting and accountability to any primary regulator other than the Authority.

(3) A self-regulatory organisation shall submit any amendments made to its rules to the Authority for approval before the amendments come into operation.

#### **69. Restriction on decision by self-regulatory organisation**

A self-regulatory organisation shall not make a decision which adversely affects the rights of another person, unless the self-regulatory organisation

- (a) has given that person an opportunity to make representations about the matter; or
- (b) considers, on reasonable grounds, that a delay in making the decision will prejudice a class of consumers.

#### **70. Disciplinary action by self-regulatory organisation**

(1) A self-regulatory organisation may take a disciplinary action against any of its members who contravenes the rules.

(2) A self-regulatory organisation shall, where it has taken a disciplinary action under subsection (1), immediately inform the Authority, in writing, of the name of the member, the reason and the action taken, the amount of any fine imposed and the period of suspension if any.

(3) The Authority may, on its own motion or on application by an aggrieved person, review any disciplinary action taken under subsection (1) and may affirm, modify or set aside the decision after giving the aggrieved person and the self-regulatory organisation an opportunity to be heard.

(4) Nothing in this section shall preclude the Authority, in any case where a self-regulatory organisation fails to act against its member, from suspending, expelling or otherwise disciplining that member.

(5) The Authority shall, before taking any action under subsection (4), give the licensed person and the self-regulatory organisation an opportunity to be heard.

(6) Any action taken by a self-regulatory organisation under subsection (1) shall not prejudice the power of the Authority to take any further action as it considers necessary with regard to the licensed person.

### **71. Protection from personal liability**

Civil liability, whether arising in contract, tort, defamation, equity or otherwise shall not be incurred by

- (a) a self-regulatory organisation; or
- (b) a person acting on behalf of a self-regulatory organisation including
  - (i) any member of the board of directors, employee or agent of the self regulatory organisation; or
  - (ii) any member of a committee established by the self-regulatory organisation,

in respect of anything done or omitted to be done in good faith in the discharge of the duties delegated to the self-regulatory organisation under this Part or in the performance of its functions under its rules.

### **72. Appointment of key personnel by self-regulatory organisation**

A self-regulatory organisation shall not change its key personnel except with prior written notification to the Authority of its intention to change and receipt from the Authority of confirmation that it has no objection to the proposed change.

### **73. Directions to self-regulatory organisations**

(1) The Authority may, after giving a self-regulatory organisation reasonable opportunity to be heard in respect of any matter, give directions, in writing, to the self-regulatory organisation.

- (2) A direction given under subsection (1) may—
  - (a) suspend a provision of the constitution or rules of a self-regulatory organisation for a period specified in the direction;

- (b) require a self-regulatory organisation, subject to the Companies Act or any other law, to amend its constitution as specified in the direction to bring it in conformity with this Act, or any other law;
- (c) require the self-regulatory organisation to amend its rules; or
- (d) require a self-regulatory organisation to enforce its rules.

#### **74. Removal of officer of self-regulatory organisation**

The Authority may, if it reasonably believes that

- (a) an officer of a self-regulatory organisation is not a fit and proper person to be an officer of the organisation; or
- (b) the appointment of a person or continuing in office of a person as an officer of a self-regulatory organisation is likely to be detrimental to the self-regulatory organisation or may prejudice the interests of investors and consumers of financial services or members of the relevant sector or industry, after giving the officer and the self-regulatory organisation an opportunity to be heard, direct the self-regulatory organisation not to appoint the officer, or to remove the person from office.

#### **75. Annual report**

(1) A self-regulatory organisation shall, within ninety days after the end of every financial year, submit to the Authority a financial statement and an annual report which shall include—

- (a) a report on the corporate governance policy of the self-regulatory organisation;
- (b) financial statements prepared and audited in accordance with the accounting and auditing standards adopted by the Institute of Certified Public Accountants of Uganda; and
- (c) such other information as may be specified by the Authority.

(2) An auditor who, in the course of an audit, has reason to believe that

- (a) the self-regulatory organisation may be in contravention of this Act, or directions issued by the Authority;
- (b) a financial crime has been or is likely to be committed; or
- (c) serious irregularities have occurred,

shall report the matter, in writing, to the Authority.

(3) A report made under subsection (2) shall not constitute a breach of the duties of the auditor.

PART VII—REGISTER OF INTERESTS IN SECURITIES

**76. Application of Part**

- (1) This Part applies to—
  - (a) an approved person; and
  - (b) a financial journalist.

(2) For the purpose of this section, “financial journalist” means a person who contributes advice on securities or prepares, analyses or reports on securities for publication in a newspaper, or periodical report.

(3) For the purpose of this section, a reference to securities means securities quoted on a securities exchange.

(4) A person to whom subsection (1) applies shall maintain a register of the securities in which the person has an interest in accordance with regulations made under this Act.

(5) The Authority or a person authorised by the Authority may require any person to whom subsection (1) applies to produce for inspection the register required under subsection (4) and the Authority or any person authorised by the Authority may make extracts from the register.

**77. Particulars of financial journalists**

(1) The Authority or any person authorised by the Authority may, by notice in writing, require the proprietor or publisher of a newspaper or periodical to supply the Authority or person authorised by the Authority with the name and address of the financial journalist who has contributed any advice or prepared any analysis or report that has been published in a newspaper or periodical owned or published by that proprietor or publisher or with the names and addresses of all the financial journalists who have given any such advice or prepared any such analysis or report within a period specified in the notice.

(2) Any proprietor or publisher of a newspaper or periodical who, without reasonable excuse, fails to comply with a notice under subsection (1) commits an offence.

## PART VIII—ACCOUNTS AND AUDIT

### **78. Application of Part**

This Part shall apply to an approved person and to the business of dealing in securities carried on by an approved person.

### **79. Records to be kept by approved persons**

(1) An approved person shall maintain, in Uganda, adequate and orderly records of its business affairs, financial position, internal organisation, compliance with statutory and regulatory requirements and of risk management systems.

(2) An approved person shall keep adequate and orderly records of the business transactions undertaken for their customers, the business affairs of their customers where relevant to the business undertaken for their customers and their relationship with their customers.

(3) The records shall be arranged, filed, indexed and cross referenced so as to permit prompt access to any particular record.

(4) In relation to transactions, the records shall be such as to allow all aspects of a securities transaction with which an approved person has been involved, to be traced through from the initial order to the final settlement of the deal.

(5) The records shall be kept in a form that permits sufficient reconstruction of a transaction, including the amount and type of currency involved, if any, so as to provide evidence for prosecution in criminal proceedings.

(6) The records required under this section shall be kept for at least ten years.

(7) In the case of records relating to a customer, the records shall be kept for a period of ten years from the time the account with the customer is closed.

(8) The nature and form of the records to be kept shall be as prescribed by regulations.

(9) A licensed person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding two years, or both.

### **80. Securities documents in custody of broker or dealer**

(1) Where a broker or dealer receives for safe custody documents that are securities or are documents of title to securities of any person in this subsection referred to as “client”, and for which the broker or dealer or a nominee controlled by the broker or dealer is accountable, the broker or dealer shall—

- (a) if the documents are not registered in the name of the client by the body corporate by whom the securities were issued or made available, and the client does not make a request as mentioned in paragraph (b) or (c), cause the documents to be so registered;
- (b) if the client requests that the documents be registered by the body corporate by whom the securities were issued or made available in the name of a nominee controlled by the broker or dealer, cause them to be so registered; or
- (c) if the client requests that the documents be deposited in safe custody with the broker or dealers’ bankers, cause them to be so deposited.

(2) A broker or dealer shall not deposit as security for a loan or advance documents that are securities or are documents of title to securities of a client and for which the broker or dealer or a nominee controlled by the broker or dealer is accountable, unless an amount is owed to the broker or dealer by the client in connection with a transaction entered into on behalf of the client and the broker or dealer—

- (a) gives a written notice to the client identifying the documents and stating that the broker or dealer intends to deposit them as security for a loan or advance made to the broker or dealer; and

- (b) deposits the documents as security for a loan or advance that does not exceed the amount owed to the broker or dealer on the day of the deposit by the client in connection with a transaction entered into on behalf of the client by the broker or dealer.

(3) Where a broker or dealer has given a notice to a person as mentioned in subsection (2) and has deposited the documents referred to in the notice as security for a loan or advance and the person pays the amount owed by that person, to the broker or dealer, the broker or dealer shall withdraw the documents from deposits as soon as practicable after the broker or dealer receives the owed amount.

(4) Where a broker or dealer deposits, as security for a loan or advance made to the broker or dealer, documents that are securities or are documents of title to securities of another person and for which the broker or dealer or a nominee controlled by the broker or dealer is accountable, the broker or dealer shall, at the expiration of six months after the date on which the documents are deposited, and at the expiration of each subsequent period of six months if the documents are still maintained on deposit, send to the other person written notice to that effect.

(5) A broker or dealer who contravenes subsection (4) commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding four years, or both.

### **81. Brokers' client trust account**

(1) A broker shall open and maintain with a bank in Uganda an account designated as a trust account.

(2) A broker shall pay into the trust account all money held by the broker in trust for a client not later than the next day on which the bank is open for business following the day on which the money are received by the broker.

(3) Notwithstanding subsection (1), where money that are required by this section to be paid into a trust account are received by a broker in a place outside Uganda, the broker may pay those money in a trust account maintained by the broker in that place.



(4) For the purposes of subsection (2), all money received by a broker from a client other than the following shall be taken to be held in trust for that client—

- (a) money received in respect of brokerage and other proper charges;  
or
- (b) money received in payment or part payment for securities delivered to the broker before the money are received.

(5) Subsection (2) does not apply to a cheque, bank draft, money, order or postal order made payable to or to the order of a specified person or bearer, received from or on behalf of a client with instructions, express or implied, that the cheque, bank draft, money order or postal order is to be delivered to the person to whom it is payable.

(6) Subsection (5) does not exempt a cheque, bank draft, money order or postal order in which the payee is the broker, a partner of the broker or the firm in which the broker is a partner from the provisions of subsection (2).

(7) Any person who contravenes any provision of this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding eight years, or both.

(8) Any person who, with intent to defraud, contravenes any provision of this section that is applicable to that person commits an offence and is liable, on conviction, to a fine not exceeding three hundred currency points or to imprisonment for a term not exceeding thirteen years, or both.

## **82. Purpose for which money may be withdrawn from trust account**

(1) A broker who withdraws money from a trust account except for the purpose of—

- (a) making a payment to a person entitled to the money or in accordance with the written direction of a person entitled to the money;
- (b) defraying brokerage and other proper charges;
- (c) paying to the broker money to which that broker is entitled, being money that were paid in a trust account but were not required to be so paid; or
- (d) making a payment that is otherwise authorised by law,

commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding eight years, or both.

(2) A broker who, with intent to defraud, withdraws money from a trust account commits an offence and is liable, on conviction, to a fine not exceeding three hundred currency points or to imprisonment for a term not exceeding thirteen years, or both.

(3) Except as otherwise provided in this Part, money held in a trust account are not available for payment of the debts of a broker or liable to be paid or taken in execution under the order or process of a court.

(4) Nothing in this Part takes away or affects a lawful claim or lien that a person has against or on any money held in a trust account or any money received for the purchase of securities or from the sale of securities before those money are paid into a trust account.

(5) A broker does not commit an offence under subsection (1) where the broker withdraws from a trust account an amount that is the whole or any part of the amount of a cheque that has been deposited into the account but that has not been paid, but has not been refused payment by the banker on whom it is drawn.

(6) Where a broker withdraws from a trust account an amount that is the whole or any part of the amount of a cheque that has been deposited into the account but that has not been paid by the banker on whom it is drawn and the banker on whom it is drawn refuses payment of the cheque, the broker shall immediately pay into the trust account by cash or bank cheque an amount equal to the amount withdrawn from the trust.

(7) Where a stock broker fails to comply with subsection (6) commits an offence and the failure shall—

- (a) where the stock broker is a member of a securities exchange and for the purpose of a fidelity fund established by the approved securities exchange in accordance with section 40, be taken to be a defalcation by the stock broker; and
- (b) be treated as a breach by the stock broker of its contractual obligations for the purposes of the Investor Compensation Fund established under section 90.

(8) Any person who commits an offence under subsection (7) is liable, on conviction, to a fine not exceeding three hundred currency points or to imprisonment for a term not exceeding thirteen years, or both.

(9) Notwithstanding anything in this section, a person convicted of an offence under this section is, in addition to any penalty imposed on that person for the offence, liable to refund any money lost by reason of the act constituting the offence.

### **83. Appointment of auditor by approved persons**

(1) The Authority shall require an approved person to appoint an auditor to audit the accounts of the approved person.

(2) This provision does not apply to a representative.

### **84. Right of stock exchange to impose obligations, etc. on members not affected by this Part**

Nothing in this Part prevents a stock exchange imposing on members of the stock exchange any obligations or requirements, being obligations or requirements consistent with this Act, that the stock exchange thinks fit with respect to—

- (a) the audit of accounts, including the audit of accounts by an auditor appointed by the stock exchange;
- (b) the information to be furnished in the reports from auditors; or
- (c) the keeping of books.

### **85. Certain matters to be reported by securities exchange to Authority**

(1) Where, in relation to a stock broker or dealer who is a member of a stock exchange, the securities exchange becomes aware of a prescribed matter, the securities exchange shall, as soon as practicable after becoming aware of the matter, lodge with the Authority a written report on the matter and the Authority shall, within seven days after receipt of the report, send a copy of the report to the stock broker or dealer.

(2) In this section, “prescribed matter”, in relation to a stock broker or dealer, means a matter that, in the opinion of the securities exchange concerned—

- (a) has adversely affected, is adversely affecting or may adversely affect the ability of the stock broker or dealer to meet the obligations as a stock broker or dealer;
- (b) constitutes or may constitute—
  - (i) a contravention of the regulations made under this Act; or
  - (ii) a contravention of a condition of a licence issued to the stock broker or dealer under this Act.

(3) An action or proceeding shall not be brought against a securities exchange or any officer or employee of the securities exchange in relation to the provision in good faith of a report to the Authority under this section.

#### **86. Power of court to restrain dealings with broker or dealer's bank accounts**

Where the Authority shows to the satisfaction of the court—

- (a) that there are reasonable grounds for believing that there is a deficiency in a trust account, whether kept within or outside Uganda, of a person who is or has been a broker or dealer, whether within or outside Uganda, by a person who is or has been a broker or dealer;
- (b) that there has been undue delay, or unreasonable refusal, on the part of a person who is or has been a broker or dealer, in paying, applying or accounting for trust money as required by this Act.
- (c) that a person who is or has been a broker or dealer has not paid money into a trust account as provided by section 81 or into an account as provided by that section; or
- (d) where a business of dealing in securities is carried on, was carried on or was last carried on, as the case may be, by a natural person otherwise than in partnership—
  - (i) that the broker's or dealer's licence of that person under Part V of this Act has been revoked or suspended;
  - (ii) that the person is incapable, by reason of physical or mental infirmity, of managing his or her affairs;
  - (iii) that the person has ceased to carry on a business of dealing in securities; or
  - (iv) that the person has died,

the court may make an order restraining dealing in respect of all or any of the bank accounts of that person, subject to such terms and conditions as the court may impose.

**87. Duty of banker to make full disclosure**

Where an order made under section 86 is directed to a banker, the banker shall—

- (a) disclose to the Authority every account kept at the bank in the name of the person to whom the order relates and any account that the banker reasonably suspects is held or kept at the bank for the benefit of that person; and
- (b) permit the Authority to make a copy of, or to take an extract from, any account of the person to whom the order relates or any of the banker's books relating to that person.

**88. Power of court to make further orders to give directions**

Where an order is made under section 86, the court may, on the application of the Authority or of a person affected by the order, make further orders—

- (a) dealing with such ancillary matters as the court considers necessary or desirable;
- (b) directing that all or any of the money in an account affected by an order so made be paid by the bank to the Authority or a person nominated by the Authority, on such terms and conditions as the court thinks fit;
- (c) discharging or varying the order.

**89. Power of court to make orders relating to payment of moneys**

(1) An order made under section 88 may include directives to the person to whom the moneys is repaid directing that the person—

- (a) pays the moneys into a separate trust account;
- (b) prepares a scheme for distributing the moneys to persons who claim, during a period of six months after the Authority or the person receives the moneys, to be entitled to the moneys and satisfy the Authority or that other person that they are so entitled;  
or
- (c) where the moneys received is insufficient to pay all proved claims, may apportion the moneys among the claimants in proportion to

their proved claims and show in the scheme how the moneys is so apportioned.

(2) Where a person prepares a scheme for distribution of moneys under subsection (1), that person shall apply to the court for approval of the scheme and for directions in respect of it.

(3) The court may give such direction as to the moneys held in a separate trust account under subsection (1), as to the persons to whom and in what amounts the whole or any portion of that moneys shall be paid, and as to the payment of the balance of the moneys, if any, remaining in the account, as the court thinks fit.

#### PART IX—INVESTOR COMPENSATION FUND

### **90. Establishment of Investor Compensation Fund**

(1) There is established a fund to be known as the Investor Compensation Fund for the purposes of granting compensation to investors who suffer pecuniary loss resulting from the failure of a licensed broker or dealer to meet the contractual obligations of a licensed broker or dealer.

- (2) The Compensation Fund shall consist of—
- (a) contributions by the Authority from the General Fund;
  - (b) such money as is required to be paid into the Compensation Fund by licensed persons;
  - (c) such sums of money as are paid under section 98 as ill-gotten gains where those harmed are not specifically identifiable;
  - (d) such sums of money as accrue from interest and profits from investing money from the Compensation Fund;
  - (e) such sums as are received by the Authority by way of fines or penalty under section 147;
  - (f) such sums of money recovered by or on behalf of the Authority from entities whose failure to meet their obligations to investors results in payments from the Compensation Fund; and
  - (g) such sums of money as are received for purposes of the Compensation Fund from any other source approved by the Board.

(3) Money which has accumulated in the Compensation Fund may be invested by the Authority in such manner as may be determined by the Authority.

PART X—MARKET ABUSES

**91. False trading and market rigging transactions**

(1) Any person who creates or causes to be created, or does anything that is likely to create, a false or misleading appearance of active trading in any securities on a stock exchange in Uganda or a false or misleading appearance with respect to the market for, or the price of, any such securities commits an offence.

(2) Any person who by means of purchases or sales of any securities that do not involve a change in the beneficial ownership of those securities, or by any fictitious transactions or devices maintains, inflates, depresses or causes fluctuations in the market price of any securities commits an offence.

(3) Without prejudice to the general effect of subsection (1), any person who—

- (a) effects, takes part in, is concerned in or carries out, either directly or indirectly, any transaction of sale or purchase of any securities, being a transaction that does not involve any change in the beneficial ownership of the securities;
- (b) makes or causes to be made an offer to sell or purchase any securities at a specified price where that person has made or caused to be made or proposes to make, or knows that a person associated with that person has made or caused to be made or proposes to make, an offer to sell or purchase the same number, or substantially the same number, of securities at a price that is substantially the same as the specified price,

shall be taken to have created a false or misleading appearance of active trading in securities on a stock exchange.

(4) In a prosecution of a person for an act referred to in subsection (3), it is a defence if the defendant establishes that the purpose for which the defendant did the act was not, or did not include, the purpose of creating a false or misleading appearance of active trading in securities on the stock exchange.

(5) A purchase or sale of securities does not involve a change in the beneficial ownership for the purposes of this section if a person who had an interest in the securities before the purchase or sale, or a person associated with that person, acquires an interest in the securities after the purchase or sale.

(6) In a prosecution for an offence under subsection (2) in relation to a purchase or sale of securities that did not involve a change in the beneficial ownership of those securities, it is a defence if the defendant establishes that the purpose for which the defendant purchased or sold the securities was not, or did not include, the purpose of creating a false or misleading appearance with respect to the market for or the price of securities.

(7) The reference in subsection (3) to a transaction of sale or purchase of securities includes—

- (a) a reference to the making of an offer to sell or purchase securities; and
- (b) a reference to the making of an invitation, however expressed, that expressly or impliedly invites a person to offer to sell or purchase securities.

## **92. Stock market manipulation**

(1) Any person who effects, takes part in, is concerned in or carries out, either directly or indirectly, two or more transactions in securities of a body corporate which are transactions that have, or are likely to have, the effect of raising, lowering, maintaining or stabilising the price of securities of the body corporate on a stock exchange in Uganda with intent to induce other persons to sell, purchase or subscribe for securities of the body corporate or of a related body corporate commits an offence.

(2) A reference in this section to a transaction, in relation to securities of a body corporate, includes—

- (a) a reference to the making of an offer to sell or purchase those securities of the body corporate; and
- (b) a reference to the making of an invitation, however expressed, that expressly or impliedly invites a person to offer to sell or purchase those securities of the body corporate.



**93. False or misleading statements, etc.**

A person commits an offence who makes a statement, or disseminates misleading information, that is false or misleading in a material particular statement, that is likely to induce the sale or purchase of securities by other persons or is likely to have the effect of raising, lowering, maintaining or stabilising the market price of securities if, when the person makes or disseminates the information and

- (a) does not care whether the statement or information is true or false; or
- (b) does or ought reasonably to have known that the statement or information is false or misleading in a material particular.

**94. Fraudulently inducing persons to deal in securities**

(1) A person commits an offence if the person induces or attempts to induce another person to deal in securities—

- (a) by making or publishing any statement, promise or forecast which the person knows to be misleading, false or deceptive;
- (b) by any dishonest concealment of material facts;
- (c) by the reckless making or publishing, dishonestly or otherwise, of any statement, promise or forecast that is misleading, false or deceptive; or
- (d) by recording or storing in, or by means of, any mechanical, electronic or other device information that the person knows to be false or misleading in a material particular.

(2) It is a defence to a prosecution for an offence under subsection (1)(d) to establish that at the time when the defendant recorded or stored the information described in that provision, the defendant had no reasonable grounds for expecting that the information would be available to any other person.

**95. Dissemination of illegal statements**

A person commits an offence who circulates or disseminates any statement to the effect that the price of any securities of a body corporate will or is likely to rise or fall or be maintained by reason of any transaction entered into or other act or thing done in relation to securities of that body corporate in contravention of any of the provisions of this Part where—

- (a) the person, or a person associated with the person, has entered into any such transaction or done any such act or thing; or
- (b) the person has received, or expects to receive directly or indirectly, any consideration or benefit for circulating or disseminating or authorising or being concerned in the circulation or dissemination of the statement or information.

#### **96. Employment of manipulative and deceptive devices**

It is an offence for any person directly or indirectly in connection with the purchase or sale of any securities—

- (a) to employ any device, scheme or artifice to defraud;
- (b) to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person; or
- (c) to make any untrue statement of a material fact or to omit to state a material fact necessary with the result that the statements made in the light of the circumstances under which they were made, appear truthful.

#### **97. Prohibition of dealings in securities by insiders**

(1) A person who is, or has at any time in the six months immediately preceding a specific deal, been connected with a body corporate shall not deal in any securities of that body corporate if by reason of his or her association he or she is in possession of information that is not generally available but, if it were, might materially affect the price of those securities.

(2) A person who is, or has at any time in the preceding six months immediately preceding a specific deal been, connected with a body corporate shall not deal in any securities of another body corporate if by reason of his or her being, or having been, connected with the first-mentioned body corporate he or she is in possession of information that—

- (a) is not generally available but, if it were, would be likely to affect materially the price of those securities; and
- (b) relates to any transaction, whether actual or expected, involving both those bodies corporate or involving one of them and the securities of the other.

(3) Where a person is in possession of any information described in subsection (1) or (2), but he or she is not precluded by either of those

subsections from dealing in those securities, he or she shall not deal in those securities if—

- (a) he or she has obtained the information directly from another person and is aware, or ought reasonably to be aware, of the facts or circumstances by virtue of which that other person is himself or herself precluded by subsection (1) or (2) from dealing in those securities; or
  - (b) when the information was obtained as described in paragraph (a), he or she was associated with that other person or had with him or her an arrangement for the communication of information of a kind to which subsections (1) and (2) apply with a view to dealing in securities by himself or herself or with that other person.
- (4) A person shall not at any time when he or she is precluded by subsection (1), (2) or (3) from dealing in any securities—
- (a) cause or procure any other person to deal in those securities; or
  - (b) communicate that information to any other person if—
    - (i) trading in those securities is permitted on a stock exchange whether within or outside Uganda; and
    - (ii) he or she knows, or ought reasonably to know, that the other person will make use of the information for the purpose of dealing or causing or procuring another person to deal in those securities.
- (c) Without prejudice to subsection (3) but subject to subsections (6) and (7), no body corporate shall deal in any securities at a time when any officer of that body corporate is precluded by subsection (1), (2) or (3) from dealing in those securities.
- (6) A body corporate is not precluded by subsection (5) from entering into a transaction at any time by reason only of information in the possession of an officer of that body corporate if—
- (a) the decision to enter into the transaction was taken on its behalf by a person other than that officer;
  - (b) it had in operation at that time arrangements to ensure that the information was not communicated to any person and that no advice with respect to the transaction was given to that person by a person in possession of the information; and

- (c) the information was not so communicated, and the advice was not so given.

(7) A body corporate is not precluded by subsection (5) from dealing in securities of another body corporate by reason only of information in possession of its officer which was obtained by the officer in the course of his or her duties as its officer but relates to proposed dealings by the first-mentioned body corporate in securities of the other body corporate.

(8) For the purposes of this section, a person is connected with a body corporate if, being an individual—

- (a) he or she is an officer of that body corporate or of a related body corporate;
- (b) he or she is a substantial shareholder in that body corporate or in a related body corporate; or
- (c) he or she occupies a position that may reasonably be expected to give him or her access to information of a kind to which subsections (1) and (2) apply by virtue of—
  - (i) any professional or business relationship existing between himself or herself or his or her employer or a body corporate of which he or she is an officer, and that body corporate or a related body corporate; or
  - (ii) his or her being an officer or a substantial shareholder in that body corporate or in a related body corporate.

(d) This section does not preclude the holder of a broker's or a dealer's licence from dealing in securities, or rights or interests in securities, of a body corporate, where the securities, rights or interests are permitted by a stock exchange to be traded on the stock market of that stock exchange, if—

- (a) the holder of the licence enters into the transaction concerned as agent for another person in accordance with a specific instruction of that person to effect that transaction;
- (b) the holder of the licence has not given any advice to the other person in relation to dealing in securities, or rights or interests in securities, of that body corporate that are included in the same class as the first-mentioned securities; and
- (c) the other person is not associated with the holder of the licence.

(10) Where a prosecution is instituted against a person for entering into a transaction while in possession of certain information contrary to this

section, it is a defence if the person satisfies the court that the other party to the transaction knew, or ought reasonably to have known, of the information before entering into the transaction.

(11) For the purposes of this section

“information” in relation to securities includes—

- (a) matters of supposition and other matters that are insufficiently definite to warrant their being made known to the public;
- (b) matters relating to intentions or likely intentions of a person;
- (c) matters relating to negotiations or proposals with respect to the activities of a relevant entity, or to dealings in securities;
- (d) information relating to the financial performance of any relevant entity;
- (e) information that a person proposes to enter into, or has previously entered into, one or more transactions, arrangements or agreements in relation to securities or has prepared or proposes to issue a statement relating to such securities; and
- (f) matters relating to the future;

“information generally available” means information that has been made known to persons who invest in securities of a kind, which is likely to affect the price or value and since the information was made known, a reasonable period for the information to be disseminated among, and assimilated by, such persons, has elapsed;

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

“materially affect the price or value of securities” means information that would tend, on becoming generally available, to influence reasonable persons who invest in securities in deciding whether or not to acquire or dispose of or retain such securities or enter into an agreement with a view to acquiring or disposing of or retaining those securities;

“officer”, in relation to an issuer or other body corporate, includes—

- (a) a director, secretary, executive officer or employee of the issuer or other body corporate;
- (b) a receiver, or receiver and manager, of property of the issuer or body corporate;
- (c) a liquidator of the issuer or body corporate; and
- (d) a trustee or other person administering a compromise or arrangement made between the issuer or body corporate and another person.

(12) For the purposes of this section, a person is connected with a body corporate if, being an individual—

- (a) he or she is an officer of that body corporate or related body corporate;
- (b) he or she is a substantial shareholder in that body corporate or related body corporate; or
- (c) he or she occupies a position that may reasonably be expected to give him or her access to information of a kind to which subsections (1) and (2) apply by virtue of—
  - (i) any professional, employment or business relationship existing between himself or herself or his or her employer or a body corporate of which he or she is an officer, and that issuer or a related body corporate of that issuer; or
  - (ii) his or her being an officer or a substantial shareholder in that issuer or in a related body corporate of that issuer.

## **98. Penalties and compensation**

(1) Any person who contravenes any of the provisions of this Part is liable, on conviction—

- (a) in the case of a person not being a body corporate, to a fine not exceeding five hundred currency points or to imprisonment for a term not exceeding twenty-one years, or both; or
- (b) in the case of a person being a body corporate, to a fine not exceeding six hundred currency points.

(2) Any person convicted of an offence under this Part is liable to pay compensation to any person who, in a transaction for the purchase or sale of securities entered into with that person or with a person acting for or on behalf of that person, suffers loss because of the difference between the price

at which the securities were dealt in and the price at which they might have been dealt in at the time when the transaction took place if the contravention had not occurred.

(3) The amount of compensation for which a person is liable under subsection (2) is the amount of the loss sustained by the person claiming the compensation.

(4) Where harm has been done on the market as a whole, the liability shall be the amount of illegal gains received or the loss averted as a result of the illegal action as determined by the court.

(5) To the extent that a person found guilty of an offence under subsection (1) profited by that offence but those harmed cannot reasonably and practicably be determined, the payment under subsection (3) shall be made to the Compensation Fund.

(6) An action under subsection (2) for the recovery of a loss shall not be commenced after the expiration of three years after the date of completion of the transaction in which the loss occurred.

(7) Nothing in subsection (2) affects any other liability that a person may incur under any other law.

(8) The amount of compensation for which a person is liable under subsection (2) shall be the amount of the loss sustained by the person claiming the compensation.

(9) Where the Authority can prove, in a civil suit brought by it before the court, that a person has contravened any of the provisions of this Part, that person shall be liable to pay to the Authority—

- (a) the amount which the person profited or the loss which the person avoided as a result of the contravention;
- (b) a punitive or compensatory penalty as may be determined by the court but not exceeding three times the amount of profit gained or the amount of loss avoided as a result of the contravention;
- (c) interest; and
- (d) costs of the suit as may be determined by the court.

(10) Any amount recovered by the Authority as a result of the civil proceedings referred to in subsections (2) and (3) shall be applied as follows—

- (a) as a first charge against the amount, the Authority shall be entitled to reimbursement of all expenses reasonably incurred by it in bringing the proceedings and in administering the distributions of the proceeds from the civil proceedings;
- (b) the Authority shall be entitled to a sum equal to ten percent of the gross amount so recovered, less any amount of costs ordered and actually recovered from the other party, prior to final distribution of the recovered amount;
- (c) the Authority shall distribute the balance first to any claimants as mentioned under subsections (2) and (3) to the extent required to compensate claimants for any losses incurred by the claimants, taking into account any sums awarded to claimants under subsection (2) and any residual sum shall be paid by the Authority into the Investor Compensation Fund.

(11) An amount not claimed within five years from the date of the first distribution of payments to the claimants referred to in subsections (2) and (3) shall accrue to the Investor Compensation Fund provided that the Authority shall refund any unclaimed compensation without entitlement to interest to the claimant entitled to it or if the claimant is dead to his or her legal representative if a request is made, with satisfactory evidence, to the Authority at any time after the five year period.

#### PART XI—INTERIM STOCK TRADING FACILITY

##### **99. Interim stock trading facility**

(1) Where a securities exchange approved under Part IV of this Act ceases trading operations in Uganda, whether by reason of revocation of its approval or otherwise, the Authority may approve any person who holds a stock broker or dealer's licence or any other body corporate to establish and maintain an interim stock trading facility in which the holders of stock broker or dealers' licences may participate until such time as the securities exchange resumes its operations or a new securities exchange is approved under the Act.

(2) The provisions of this Act, other than sections 39 and 40, shall apply, with necessary modifications in relation to an interim stock trading



facility established under subsection (1) and, in particular, with such modifications as may from time to time be prescribed.

(3) Subject to subsection (2), the Authority may make such rules as may be required for the purpose of ensuring orderly and fair trading in securities on the interim stock trading facility and the protection of investors in connection with such trading and, in particular, rules to regulate—

- (a) the listing of securities on the facility;
- (b) the obligations of issuers of listed securities;
- (c) the trading and settlement rules of that facility;
- (d) the brokers or dealers who, and the conditions on which, those dealers may deal in securities on the facility;
- (e) the transitional arrangements for the assumption of the operations of the facility by an approved stock exchange;
- (f) any other matter relating to the operation of the facility, including the establishment and management of the Compensation Fund, as the Authority may consider necessary.

(4) Where an approved stock exchange is established under Part IV of this Act, the management and operation of the interim stock trading facility shall be assumed by the approved stock exchange in accordance with the rules made under subsection (3).

## PART XII—OFFERING OF SECURITIES TO THE PUBLIC

### **100. Interpretation**

In this Part, unless the context otherwise requires—

“advertisement” means a form of communication made to a person in Uganda which contains or refers to an invitation or inducement to subscribe for or purchase a form of investment whether that investment constitutes particular securities which are or are to be offered for subscription or purchase or relates generally to investment in some form of securities but does not include—

- (a) a registered prospectus;
- (b) a statement or report made for the purposes of any meeting of shareholders or members of the issuer or the report of the proceedings of the issuer; or
- (c) a notification statement or report made by or on behalf of an issuer relating to the affairs of the issuer made to

the Authority or a stock exchange for the purposes of compliance with section 110 or the Listing Rules or with a report of the notification statement or report;

“close business associate” in relation to a person means a person who has had a close working relationship in business with that person during the preceding five years whether as a business partner, co-director or co-trustee on a board of directors or trustees, or an employee or employer in an executive capacity;

“close relative” means—

- (a) a parent, child, including an adopted child, brother or sister of a person;
- (b) a parent, child, including an adopted child, brother or sister of a spouse of that person; or
- (c) a nominee or trustee of a person referred to in paragraph (a) or (b);

“closely held” with reference to a public company means a company the securities of which are held by persons referred to in section 104(2)(b), (c) or (g) and not more than ten persons who are employees of the company or nominees for such persons;

“debt security” means a security that involves the right to be paid money that is owed by any person whether or not secured by a charge over a property and includes debentures, loan stock, bonds or notes issued by a body corporate or by a government;

“director” means—

- (a) in relation to a company, a person occupying the position of a director of the company by whatever name called;
- (b) in relation to a partnership, other than a limited partnership, a partner;
- (c) in relation to a limited partnership, a general partner;
- (d) in relation to a body corporate, other than a company or a partnership or a limited partnership, a person occupying a position in the body that is comparable with that of a director of a company; or
- (e) in relation to a unit trust, the manager of the unit trust and where the manager is a company, every director of that company;

“equity securities” means shares, including preference shares, convertible equity shares and options, warrants and similar instruments having the right to subscribe for or purchase equity shares attached;

“information memorandum” means the memorandum required by this Act or by regulations to be furnished by or on behalf of an issuer, the securities of which are accepted for listing on or are the subject of an introduction to a stock exchange licensed by the Authority;

“introduction” means—

- (a) an offer of securities to the public by a company listed on an approved stock exchange in Uganda; or
- (b) an offer of securities to the public in respect of a security that is listed on an approved stock exchange in another country in respect of which an application for listing in an approved stock exchange in Uganda has been made;

“issuer” refers to a company or other body corporate or a government that makes an offering of securities;

“listed company” or “listed issuer” means respectively a company or other issuer

- (a) which has entered into and is party to a listing undertaking with a stock exchange approved by the Authority under this Act or a stock exchange outside Uganda recognised and approved by the Authority in a country specified by the Authority in regulations made under this Act in relation to cross-border listings any class of whose securities are listed on that stock exchange; or
- (b) which was previously a party to a listing undertaking with a stock exchange referred to in paragraph (a) and any class of whose securities were listed on the stock exchange, in respect of an action or event to which this Act applied while the person was a party to a listing agreement with that stock exchange;

“prior placement” means the organising by the issuer or a promoter of the offering of securities for subscription by either directly, or through a dealer or other licensed person, inviting persons who are professional investors or close business associates of the issuer to subscribe for the securities or, in the case of professional investors, place the securities with selected clients;

“professional investor” means a person whose ordinary business or regular activity involves the buying and selling of securities, as a principal, and includes an underwriter, a bank, and an insurance company, a fund manager, a broker, broker’s representative, a dealer, dealer’s representative, an investment adviser or investment adviser’s

representative acting as principal, subject to any exception that may be prescribed by the Authority;

“promoter” means—

(a) a person who is instrumental in the formulation of a plan or programme under which securities are offered to the public for subscription or purchase;

(b) where a body corporate is a promoter includes every person who is a director of that body corporate,

but does not include a director or officer of the issuer of the securities or a person acting solely in a professional capacity, and “promotion” shall have a corresponding meaning;

“prospectus” means a prospectus, notice, circular, advertisement, or other invitation, offering to the public securities for subscription or purchase and includes—

(a) a prospectus relating to an offer of debt securities to the public; or

(b) a prospectus in respect of any other offer of securities to the public;

“publicly held” with respect to the holding of securities means the holding of securities of a company that have been the subject of an offer to the public but does not include—

(a) the holding of securities in a private company; or

(b) the holding of securities in a public company all the securities of which, by reason of takeover or other acquisition or for some other reason, have become closely held;

“substantial shareholder” means a shareholder entitled to exercise or control the exercise of fifteen percent or more of the voting power at general meetings of the company or one who is in a position to control the composition of a majority of the board of directors of a company or such lesser percentage as may be prescribed.

### **101. Territorial Scope**

(1) This Part applies to a security offered to a person in Uganda regardless of—

(a) where a resulting allotment occurs; or

(b) where the issuer is resident, incorporated or carries on business.

(2) For the purposes of this Part a security is offered to a person in Uganda if an offer of that security for subscription is received by a person in Uganda, unless the issuer took all reasonable steps to ensure that a person in Uganda does not accept the offer.

### **102. Exemptions from this Part**

(1) Nothing in this Part shall apply in respect of any security the issuer of which is—

- (a) the Government of Uganda; or
- (b) the Bank of Uganda.

(2) This Part shall not apply to an offer of units or shares in a licensed scheme under the Collective Investment Schemes Act.

### **103. Authority may grant exemption from this Part**

(1) The Authority may, in its discretion, and upon terms and conditions it may think fit, exempt a person or class of persons or a transaction or class of transactions from compliance with any provision of this Part including regulations made under this Act which relate to this Part.

(2) The Authority shall not grant an exemption under subsection (1) unless it is satisfied that compliance with the requirements of this Part—

- (a) would, in the case of a prospectus, render the prospectus misleading in some particular or would provide a misleading impression material to the prospectus as a whole;
- (b) is inappropriate to the circumstances in which the securities are being offered and the granting of the exemption will not prejudice persons investing under the prospectus; or
- (c) compliance with the requirement from which exemption is sought would place an unreasonable and excessive burden on the issuer or any officer of the issuer and any benefit that compliance would provide to persons investing in the securities would be minimal.

(3) The Authority shall ensure that an exemption granted by the Authority under this section is immediately published in the *Gazette* and a daily English newspaper of nationwide circulation.

(4) A person who is exempted by the Authority, subject to a condition, from compliance with a requirement of this Part or of regulations made under this Act which relate to this Part shall not contravene or fail to comply with the condition.

(5) Where a person has contravened or failed to comply with a condition to which an exemption under subsection (1) is subject, the Authority may cancel the exemption.

#### **104. Meaning of “offer to the public”**

(1) A reference in this Part to offering securities to the public shall be construed as including—

- (a) offering securities to a section of the public, however selected, whether selected as clients, employees, or a purchaser of goods from the offeror or a promoter of the securities, or being the holder of securities previously issued by the issuer or promoter of the securities;
- (b) offering the securities to individual members of the public selected at random; or
- (c) offering the securities to a person if the person became known to the offeror as a result of an advertisement made by or on behalf of the offeror or that was intended or likely to result in the public seeking further information or advice about an investment opportunity or services.

(2) None of the following offers shall constitute an offer to the public—

- (a) an offer of securities where the amount subscribed for the securities by each person to whom the securities are offered is not less than five hundred currency points or a prescribed amount;
- (b) an offer of securities which is restricted to persons who are directors or executive officers of the corporation making the offer or are close relatives or business partners or close business associates of such director or executive officer;
- (c) an offer of securities which is restricted to persons who are close business associates of persons who are directors or executive officers of the corporation making the offer;
- (d) an offer of securities which is restricted to persons referred to in paragraph (b) and to a body corporate in which an executive

- officer or a close relative or business partner or associate of the kind referred to in paragraph (c) have a controlling interest;
- (e) an offer of securities where no consideration is paid or provided in respect of the issue or allotment of the securities;
  - (f) an offer to enter into an underwriting agreement;
  - (g) an issue or allotment of securities to not more than one hundred persons who are professional investors or experienced investors where the securities are allotted as a result of an invitation or offer made personally to that person or those persons; or
  - (h) an offer made to acquire all of the shares in a company which provides ownership of the whole of the assets and undertaking of a business enterprise or to acquire the whole of the undertaking and assets of a partnership or trust and which offer is capable of acceptance by and restricted to not more than ten persons and each person has reasonably available to the person the financial and other information needed by that person to make a reasonably informed investment decision.

(3) Proof of an offer of securities to one person selected as a member of the public shall be *prima facie* evidence of an offer of securities to the public.

### **105. Prior placements to be notified**

(1) An issuer which intends to make a placement to subscribe for securities to persons referred to in subsection (2)(c) directly or through a dealer inviting persons to subscribe for securities or, in the case of professional investors, place the securities with selected clients, shall, before receiving any subscription under that invitation, or any commitment on the part of any person to subscribe for or take the securities, give notice in writing to the Authority of its intention to receive those subscriptions.

(2) The notice required to be given under subsection (1) shall provide the following information to the Authority—

- (a) a description of the securities to be offered;
- (b) particulars of the terms of sale;
- (c) particulars of all persons to be approached to subscribe for securities under the invitation; and

- (d) a description of the capital structure and a copy of the financial statements of the issuer covering the last financial year of the issuer.

(3) The Authority may, within three working days after receiving the notification, require the issuer to provide the Authority with further information material to the Authority's determination.

(4) The Authority shall promptly determine whether the invitation as notified to it constitutes an offer to the public and requires a prospectus to be issued and if it is determined that the proposed offer may proceed as a private placement that does not require the issue of a prospectus, the Authority may give directions to the issuer on the matters that are to be disclosed to the proposed investors under the placement.

#### **106. Prohibition on offering securities without prospectus**

(1) A person shall not offer securities to the public for subscription and shall not issue or circulate a form of application for securities unless—

- (a) the form of application is accompanied by a prospectus whose date of publication is a date within six months immediately preceding the date on which the form was issued, circulated or distributed;
- (b) the prospectus complies with the requirements of this section; and
- (c) a copy of the prospectus and particulars of the issue, circulation or distribution have been registered with the Registrar of Companies.

(2) The Registrar of Companies shall not register a prospectus unless—

- (a) the prospectus has been approved by the Authority and the Authority has stated in writing that it has approved the prospectus;
- (b) the prospectus complies with the requirements of this Act and regulations made under this Act;
- (c) the prospectus states at its head the following—

“A copy of this prospectus has been delivered to the Registrar of Companies for registration. However, the securities that are



the subject of the prospectus have neither been approved nor disapproved by the Capital Market Authority;

Prospective investors should pay due attention to the risk factors outlined in the prospectus”;

- (d) there is also filed with the Registrar of Companies a copy of—
    - (i) every consent required by section 112(1)(h) to the issue of the prospectus;
    - (ii) every material contract referred to in the prospectus or, in the case of a contract not reduced into writing, a declaration giving full particulars of the contract; and
  - (di) where a prospectus relates to securities dealt in on an approved stock exchange or states that the application has been or will be made to an approved stock exchange for permission to deal in the securities to which it relates, the prospectus shall be accompanied by a certificate from the approved stock exchange that the prospectus has been scrutinised by the stock exchange, and that the exchange’s requirements relating to its contents have been satisfied.
- (3) Every issuer of securities shall—
- (a) cause a copy of every document referred to in subsection (2)(d) to be deposited, not later than three days after the prospectus is registered, at its registered office where it is required to have one or at its principal place of business; and
  - (b) keep a copy of every document referred to in subsection (2)(d), for at least six months after the registration of the prospectus, for the inspection by investors, members and creditors.
- (4) The Registrar of Companies shall keep and maintain a register of prospectuses on which all prospectuses registered under this section shall be entered.
- (5) The Registrar of Companies shall within three days after registering a prospectus of a company send a copy of the prospectus to the Authority.

(6) This section applies so far as companies are concerned, in addition and supplementary to the provisions relating to registration of a prospectus under the Companies Act.

### **107. Actions to which section 106 does not apply**

A person does not contravene section 106 by sending a draft disclosure document or unregistered prospectus for securities to a person who is a professional investor within a period not exceeding fourteen days prior to the registration of a prospectus offering the securities for subscription.

### **108. Material change**

(1) Where after the Authority has given approval to the prospectus, but before registration by the Registrar of Companies, or after the registration but before in the case of listed securities, the admission to listing on an approved stock exchange, or in any other case before the closure of the offering period, a material change occurs in the business of the issuer, or in any other matter which would have the effect of rendering the prospectus or a statement required to be contained in the prospectus or any other matter concerning the issue to the public generally, untrue, incomplete, misleading or non-compliant with any law applicable or any listing rules to the issuer, the issuer shall promptly inform the Authority of the occurrence of the change and the Authority shall give directions as it considers appropriate in the circumstances including the revocation of the approval granted.

(2) Where in the circumstances set out in subsection (1) or in any other circumstances where the Authority considers that the prospectus, before or after registration and before the closing of the offer period or in the case of listed securities before admission of the securities to listing, contains any untrue, incomplete or misleading statement or does not comply with the law or any listing rules applicable to the issuer, the Authority may require the prospectus to be amended or completed or may require that a fresh document be submitted.

### **109. Invitations to deposit or lend money**

(1) Subject to subsection (3), a company or declared person shall not issue, circulate or distribute an invitation to deposit money with or lend money to a person unless—

- (a) a copy of the prospectus relating to the invitation has been registered under section 106;
  - (b) the prospectus contains an undertaking by the company or declared person or proposed company that it will, within two months after the acceptance of any money as a deposit or loan from any person in response to the invitation, issue to that person a document which acknowledges or evidences or constitutes an acknowledgement of the indebtedness of the company or declared person in respect of that deposit or loan; and
  - (c) where the deposits or loans are not to be secured by a charge or charges on the undertaking of the company or declared person or on any of the company or declared person's assets, any statement in the invitation or advertisement relating to documents to be issued evidencing the deposits or loans shall refer to those documents as unsecured deposit notes or unsecured notes, or by some other description that includes the word "unsecured", and shall not—
    - (i) refer to the documents as debentures; or
    - (ii) refer to them by any description that includes the word "registered";
  - (d) in the case of a company a trust deed is entered into with a trustee for debenture holders with such person as trustee and on such terms as shall be approved by the Authority or is provided for by regulations under this Act; and
  - (e) in the case of a declared person a trust deed is entered into providing for the appointment of a trustee for security holders with such person as trustee and on such terms as shall be approved by the Authority or is provided for by regulations under this Act.
- (2) Where a company or declared person has accepted any money as a deposit or loan under subsection (1), it shall, within seven days after the acceptance of the money, issue to that person a document which—
- (a) acknowledges or evidences or constitutes an acknowledgement of the indebtedness of the company in respect of that deposit or loan; and
  - (b) complies with the other requirements of this section.
- (3) In this section, and in section 114, a "declared person" is a person or class of persons including a body corporate whom the Authority shall by

notice in the *Gazette* state to be a declared person for the purposes of this section.

### **110. Securities advertisements taken to be prospectus**

(1) Where a prospectus is required for an offer of securities, a person shall not— advertise the offer to intended offerees; or

- (a) publish a statement that directly or indirectly refers to the offer
- (b) or intended offer or calls attention to the offer or intended offer or is reasonably likely to induce persons to subscribe for or to purchase securities,

unless the advertisement or statement is authorised by this section.

(2) An advertisement or statement is authorised by this section if it contains no information other than the following—

- (a) the number and description of the securities concerned;
- (b) the name and date of registration of the issuer and in the case of a company the amount of its issued capital;
- (c) a concise statement of the general nature of the main business or proposed main business of the issuer;
- (d) the names, addresses and description of—
  - (i) the directors or proposed directors or members or proposed members of the board of management of the issuer;
  - (ii) the dealers or underwriters to the issue if any; and
  - (iii) in the case of debentures, the trustee for debenture holders;
- (e) the name of the stock exchange if any of which the brokers or underwriters to the issue are members;
- (f) particulars of the opening and closing dates of the offer and the time and place at which copies of the prospectus and forms of application for the securities may be obtained;
- (g) statements with respect to the sale price of securities, or their yield or other benefits received or likely to be received by holders of securities, in relation to an approved investment institution;
- (h) a statement that a prospectus is available or will be made available when the offer is made and the time and place where a prospectus is or will be available;
- (i) a statement of how to arrange to receive a copy of the prospectus; and

- (j) a statement that persons interested in subscribing may consult with a licensed investment adviser or licensed dealer.

(3) The advertisement or statement shall contain a statement that applications for securities will proceed only on one of the forms of application referred to in and attached to a printed copy of the prospectus.

(4) A security advertisement in accordance with this section shall be taken to be prospectus.

(5) Any person who contravenes this section and in the case of a corporation every officer who knowingly permits the issue of the advertisement or statement commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding two years, or both.

(6) The Authority may exempt a person from this section, subject to conditions and restrictions determined by the Authority.

#### **111. Document offering for sale deemed to be prospectus**

(1) Where a company allots or agrees to allot securities to any person with a view to their being offered for sale to the public, a document by which the offer for sale is made shall be taken to be a prospectus.

(2) For the purposes of this section, an allotment of, or an agreement to allot, a share or debenture shall, unless the contrary is proved, be taken to have been made with a view to the securities being offered for sale to the public if it is shown that—

- (a) an offer of the securities for sale to the public was made within six months after the allotment or agreement to allot; or
- (b) at the date when the offer was made the whole consideration to be received by the company in respect of the securities had not been received.

#### **112. Form and content of prospectus**

- (1) Every prospectus shall—
  - (a) be printed in a font type of a size approved by the Authority;

- (b) be dated and that date shall, unless the contrary is proved, be taken as the date of issue of the prospectus;
- (c) subject to subsection (4), be signed by every director or person named in the prospectus as a proposed director of the issuer, or by his agent authorised in writing;
- (d) state, the matters specified in section 106 and in regulations under this Act which provide for the content of prospectuses and set out the reports specified in the Regulations and under rules issued by the Authority relating to prospectuses;
- (e) in the case of an offer of a prescribed interest other than an offer falling under paragraph (d) state the matters specified in regulations made under this Act and under rules issued by the Authority relating to prospectuses issued by an issuer of a prescribed interest;
- (f) where the person making a report required to be included in the prospectus has made in the report, or has without giving any reason indicated in it, an adjustment to the report, has endorsed on it or attached to it a statement by that person setting out the adjustment and giving the reason for the stated adjustment;
- (g) contain a statement that no securities shall be allotted on the basis of the prospectus later than six months after its date of issue;
- (h) where it contains a statement made or purporting to have been made by an expert or contains what purports to be a copy of or extract from a report, memorandum or valuation of an expert, state the date on which the statement, report, memorandum or valuation was made and whether or not it was prepared by the expert for incorporation in the prospectus and contains a copy of that person's consent which shall have previously been lodged with the Authority and contains—
  - (i) a statement that the expert has given and has not, before delivery of the prospectus for registration, withdrawn his or her written consent to the issue of the prospectus with the statement included in the form and context in which it is included; and
  - (ii) a statement that he or she has given and not withdrawn his or her consent as appears in the prospectus;
- (i) not contain the name of a person as a debenture holder's representative or trustee or as an auditor or a banker or a lawyer or share broker of the company or proposed company or for or in relation to the issue or proposed issue of securities, unless that

person has consented in writing before the issue of the prospectus to act in that capacity in relation to the prospectus and a copy of the consent has been lodged with the Registrar of Companies; and

- (j) subject to subsection (2) where the prospectus offers shares in or debentures or other securities of a foreign corporation incorporated or to be incorporated, contains particulars with respect to—
  - (i) the instrument constituting the corporation;
  - (ii) the enactment or provisions having the force of an enactment by or under which the incorporation of the corporation was effected or is to be effected;
  - (iii) an address in Uganda where the instrument, enactments or provisions or certified copies may be inspected;
  - (iv) the date on which and the place where the company was or is to be incorporated; and
  - (v) whether the corporation has established a place of business in Uganda and, if so the address of its principal office in Uganda.

(k) Subsection (1)(j)(i), (ii) and (iii) shall not apply in the case of a prospectus issued more than two years after the day on which the corporation was entitled to commence business.

- (3) A document referred to in section 111 shall, in addition state—
  - (a) the net amount of the consideration received or to be received by the company in respect of shares or debentures to which the offer relates; and
  - (b) the place and time at which a copy of the contract under which the shares or debentures have been or are to be allotted may be inspected.

(4) Where an offer to which section 111 relates is made, it shall be sufficient if the document referred to in that section is signed on behalf of the issuer by two directors or their authorised agent in writing.

(5) Where after delivery of the prospectus approved by the Authority to the Registrar of Companies for registration but prior to registration the expert referred to in subsection (1)(h) has withdrawn his or her consent, the

person who has submitted the prospectus to the Authority for approval shall immediately notify the Authority and the Registrar of Companies.

(6) A condition requiring or binding an applicant for securities to waive compliance with a requirement of this section, or purporting to affect the applicant with notice of any contract, document or matter not specifically referred to in the prospectus, is void.

(7) Where a prospectus does not comply with the requirements of this Act or regulations made under this Act, a director or other person shall not incur any liability in respect of the failure to comply if the director or other person proves that he or she had no knowledge of the matter and that he or she exercised due diligence to ensure that the failure to comply did not occur.

### **113. Short form prospectus**

Where the intended offer relates to shares or debt securities of a company which are or are intended to be in all respects uniform with shares or debt securities as the case may be previously issued and the offer is made only to existing shareholders or holders of debt securities of a company with or without the right to renounce in favour of other persons, and a copy of the most recent financial statements of the company have been sent to those shareholders or debt security holders, regulations made under this Act may provide for the prospectus to be a short form prospectus which sets out abbreviated matters by way of disclosure as may be prescribed in the regulations.

### **114. Over-subscription in issue of debt securities**

(1) A company or declared person shall not accept or retain subscriptions to an issue of debt securities issued in excess of the amount of the issue disclosed in the prospectus unless the prospectus specifies—

- (a) that the company or declared person as the case may be expressly reserves the right to accept or retain over-subscriptions; and
- (b) a limit expressed as a specific sum of money on the amount of over-subscriptions that may be accepted or retained, being an amount not exceeding twenty-five percent above the amount of the issue as disclosed in the prospectus.



(2) Where a company or declared person specifies in a prospectus relating to a debenture issue that it reserves the right to accept or retain over-subscriptions—

- (a) the company or declared person shall not make, authorise or permit any statement of, or reference to, the asset backing for the issue to be made or contained in a prospectus relating to the issue, other than a statement or reference to the total tangible assets and the total liabilities of the company or declared person and of its guarantor companies; and
- (b) the prospectus shall contain a statement or reference as to what the total assets and total liabilities of the company or declared person would be if over-subscriptions to the limit specified in the prospectus were accepted or retained.

### **115. Supplementary prospectus**

(1) Where a prospectus has been approved under this Act in respect of a public offer of securities and, at any time between the opening date and the closing date while an agreement in respect of those securities can be entered into in pursuance of that public offer—

- (a) there is a significant change affecting any matter contained in the prospectus the inclusion of which was required by this Act; or
  - (b) a significant new matter arises the inclusion of information in respect of which would have been so required if it had arisen when the prospectus was prepared; or
  - (c) there is a significant inaccuracy in the prospectus,
- the offeror shall, on its own motion, with the prior consent of the Authority, or if required by the Authority, publish a supplementary prospectus containing particulars of the change or new matter or, in the case of an inaccuracy, correct it and deliver the supplementary prospectus to the registrar for registration.

(2) Where a supplementary prospectus has been approved in respect of a public offer of securities, the preceding provisions of this section shall have effect as if any reference to a prospectus were a reference to the prospectus originally registered and that supplementary prospectus, taken together.

(3) In this section “significant” means significant for the purpose of making an informed assessment of the matters mentioned in the Act.

- (4) Sections 106 and 112 shall apply to a supplementary prospectus.

### **116. Power to suspend or cancel prospectus**

(1) Where at any time subsequent to the registration of a prospectus, the Authority from information available to it, is satisfied that a registered prospectus is false or misleading in a material particular or omits any material particular whether or not it was false or misleading, or the omission was material, at the time the prospectus was registered, or does not comply with this Act or regulations made under this Act or in the case of a listed issuer with the listing rules, the Authority may, in consultation with any relevant stock exchange, notwithstanding its earlier approval of the prospectus, exercise either or both of the following powers in respect of the registered prospectus—

- (a) where it considers that suspension of the approval of the registered prospectus is necessary, the Authority may suspend the approval of the registered prospectus for a period not exceeding fourteen days; or
- (b) after giving the issuer named in the registered prospectus not less than seven days' written notice,

and after considering any written submissions made by the issuer, the Authority may cancel the approval of the registered prospectus.

(2) Where the Authority suspends the approval of a registered prospectus under this section—

- (a) it shall immediately notify the issuer named in it, the relevant stock exchange and, in the case of a company, the Registrar of Companies of the suspension and the reasons for the suspension; and
- (b) the Authority, the relevant stock exchange and the Registrar of Companies shall not, nor any of the officers or employees of the Authority, the relevant stock exchange and the Registrar of Companies, except following cancellation of the registered prospectus under this section or in the course of criminal proceedings, divulge or communicate to any other person the fact of the suspension or any matter relating to the suspension.

(3) Subject to subsection (4), where the approval of a registered prospectus is suspended—

- (a) an allotment shall not be made of any securities subscribed for whether before or after the suspension of the approval of the registered prospectus; and
- (b) all subscriptions received for securities, not being subscriptions for securities which have been allotted before the approval of the registered prospectus is suspended, shall be frozen and shall not be dealt with.

(4) Where the period of suspension of approval of a registered prospectus has not been cancelled under this section, subsection (3) shall cease to apply.

(5) Where the Authority cancels the approval of a registered prospectus under this section—

- (a) it shall immediately notify the issuer named in it, the relevant stock exchange and the Registrar of Companies of the cancellation and the reasons for the cancellation; and
- (b) it may notify any other person of the cancellation and the reasons for the cancellation.

(6) Where the approval of a registered prospectus is cancelled—

- (a) allotment shall not be made of any securities subscribed for whether before or after the cancellation of the approval of the registered prospectus; and
- (b) all subscriptions received for the securities including subscriptions held under subsection (3)(b) shall immediately be repaid to the subscribers entitled to them.

(7) Subject to subsection (8), where any subscriptions which are required to be repaid to the subscribers entitled to them are not repaid within one month after the date of the cancellation of the approval of the registered prospectus, the issuer named in it and all the directors shall be jointly and severally liable to repay the subscriptions with interest at a sum prescribed by regulations made under this Act, from the date the subscriptions were received by or on behalf of the issuer.

(8) A director of an issuer shall not be liable to repay any subscriptions and interest under subsection (7) where that director proves that the default in the repayment of the subscriptions was not due to any misconduct or negligence on the part of the director.

**117. Allotment by reference to stock exchange**

(1) Where a prospectus states or implies that an application has been or will be made for permission for the securities offered in the prospectus to be listed for quotation on the official list or any other list of an approved stock exchange or of a stock exchange outside Uganda, an allotment on an application made in response to the prospectus is, subject to subsection (3), whenever made, void if the permission is not—

- (a) applied for in the form required by the stock exchange before the third day on which the stock exchange is open after the date of issue of the prospectus; or
- (b) granted before the expiry of forty-two days from the date of issue of the prospectus or such longer period not exceeding three months from the date of issue as is, within that period of forty-two days, notified to the applicant by or on behalf of the stock exchange.

(2) Where the permission has not been applied for, or has not been granted, the issuer shall, subject to subsection (4), immediately repay without interest any money received from any applicant in response to the prospectus, and if the money is not repaid within fourteen days after the issuer becomes liable to repay it, the directors are, in addition to the liability of the issuer, but subject to subsection (3) jointly and severally liable to repay the money with interest at the ruling bank rate from the expiration of that period of fourteen days.

(3) A director shall not be liable under subsection (2) if the director proves that the default in the repayment of the money was not due to any misconduct or negligence on the part of the director.

(4) Where, in relation to any securities, the permission is not applied for or granted, the Authority may, on application made by the issuer before any security is purported to be allotted, by public notice, provide that subsections (1) and (2) shall not apply to the allotment of the securities.

(5) Where a stock exchange has, within the time specified in subsection (1)(b), granted permission subject to any condition, permission will be deemed to have been granted by the stock exchange if the directors have given to the stock exchange an undertaking in writing to comply with the condition.

(6) Where a prospectus contains a statement to the effect that the articles of association or constitution or trust deed of an issuer complied or has been drawn up so as to comply with a condition imposed by a stock exchange, the prospectus shall, unless the contrary intention appears, be deemed for the purposes of this section to imply that application has been, or will be, made for permission for the securities offered by the prospectus to be listed for quotation on the official list of a stock exchange.

(7) A condition requiring or binding an applicant for securities to waive compliance with any requirement of this section or purporting to do so shall be void.

(8) The issuer shall, for so long as it may become liable to repay money under subsection (2), keep in a separate bank account all money received in relation to a prospectus.

- (9) A person shall not issue a prospectus which includes—
- (a) an untrue statement that permission has been granted for securities to be dealt in or quoted on a stock exchange; or
  - (b) a statement in any way referring to—
    - (i) permission referred to in paragraph (a);
    - (ii) any application or intended application for any such permission;
    - (iii) dealing in or quoting the securities on a stock exchange; or
    - (iv) a condition imposed by a stock exchange, unless that statement is or is to the effect that permission has been granted or that an application has been or will be made to the stock exchange within three days after the issue of the prospectus or the statement has been approved by the Authority for inclusion in the prospectus.
  - (c) This section shall have effect—
    - (a) in relation to shares or debt securities agreed to be taken by a person underwriting an offer contained in a prospectus, as if that person had applied for them in response to the prospectus; and
    - (b) in relation to a prospectus offering shares for sale as if
      - (i) a reference to sale were substituted for a reference to allotment; and
      - (ii) the persons by whom the offer is made, and not the company, were liable under subsection (2) to repay money

received from applicants, and references to the company's liability under that subsection were construed accordingly.

(11) The reference to any "stock exchange outside Uganda" in this section refers to a stock exchange outside Uganda which has been approved by the Authority for the purpose of offering securities in Uganda.

### **118. Interpretation of provisions relating to advertisements and prospectuses**

(1) A statement included in an advertisement or prospectus is taken to be untrue if

- (a) it is misleading in the form and context in which it is included; or
- (b) it is misleading by reason of the omission of a particular which is material to the statement in the form and context in which it is included.

(2) A statement about a future matter, including the doing of, or refusing to do an act, is misleading if the person making the statement does not have reasonable grounds for making the statement.

### **119. Civil liability for misstatement in prospectus**

- (1) Subject to this section, every person who—
- (a) is a director at the time of the issue of a prospectus;
  - (b) authorises or causes himself or herself to be named and is named in a prospectus as a director or as having agreed to become a director either immediately or after an interval of time;
  - (c) is a promoter; or
  - (d) authorises or causes the issue of a prospectus,

is liable to pay compensation to a person who subscribes for or purchases securities on the faith of a prospectus for any loss or damage sustained by reason of—

- (i) an untrue statement in the prospectus; or
- (ii) the willful non-disclosure in the prospectus of a matter of which he or she had knowledge and which he or she knew to be material.

(2) A person shall not be liable under subsection (1)(d) as a person authorising or causing the issue of a prospectus by reason only that—

- (a) in a case where the consent of an expert is required to the issue of a prospectus, the expert has given that consent, except in respect of an untrue statement in the prospectus purporting to be made by that person as an expert; or
  - (b) his or her name is included in a prospectus as a trustee for debenture holders, trustee, auditor, banker, barrister, attorney at law or share broker, or as a person performing some other professional or advisory function only.
- (3) Subject to subsection (4) a person shall not be liable under subsection (1) if he or she proves that—
- (a) having consented to become a director, he or she withdrew his or her consent before the issue of the prospectus, and it was issued without his or her authority or consent;
  - (b) the prospectus was issued without his or her knowledge or consent and he or she gave reasonable notice to the public of the fact as soon as possible after he or she became aware of its issue;
  - (c) after the issue of the prospectus and before any allotment or sale under it he or she withdrew his or her consent and gave reasonable notice to the public of the withdrawal as soon as possible after he or she became aware of any untrue statement in the prospectus;
  - (d) in relation to an untrue statement not purporting to be made on the Authority of an expert or of a public official document or statement, he or she had reasonable ground to believe, and did up to the time of the allotment or sale of the securities believe, that the statement was true;
  - (e) in relation to an untrue statement purporting to be a statement made by an expert or to be based on a statement made by an expert contained in what purports to be a copy of or extract from a report, memorandum or valuation of an expert, it fairly represented the statement, or was a correct and fair copy of or extract from the report, memorandum or valuation, and he or she had reasonable ground to believe and did up to the time of the issue of the prospectus believe that the person making the statement was competent to make it and that that person had given the consent required by section 112(1)(h) to the issue of the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for lodging, or, to that person's knowledge, before any allotment or sale under the prospectus; and

- (f) in relation to a statement purporting to be a statement made by a public officer contained in what purports to be a copy of or extract from a public document, it was a correct and fair representation of the statement or copy of or extract from the document.

(4) Subsection (3) shall not apply in the case of a person who is liable under subsection (1)(d), by reason of his or her having given a consent required of him or her by section 112(1)(h), in respect of an untrue statement purporting to have been made by him or her as an expert.

(5) A person who apart from this subsection would be liable under subsection (1)(d) by reason of his or her having given a consent required of him or her by section 112(1)(h), in respect of an untrue statement purporting to be made by him or her as an expert shall not be liable if he or she proves that—

- (a) having given his or her consent under section 112(1)(h), to the issue of the prospectus, he or she withdrew it in writing before a copy of the prospectus was registered by the Authority;
- (b) after a copy of the prospectus was registered by the Registrar of Companies and before allotment or sale of securities, he or she withdrew his or her consent and gave reasonable notice to the public of the withdrawal as soon as possible after he or she became aware of the untrue statement; or
- (c) he or she was competent to make the statement and had reasonable ground to believe and did up to the time of the allotment or sale of shares or debentures believe that the statement was true.

(6) Where—

- (a) a prospectus contains the name of a person as a director, or as having agreed to become a director, and he or she has not consented to become a director, or has withdrawn his or her consent before the issue of the prospectus, and has not authorised or consented to its issue; or
- (b) the consent of a person is required under section 112(1)(h) to the issue of the prospectus and he or she either has not given that consent or has withdrawn it before the issue of the prospectus,

every director of the company other than a director without whose knowledge or consent the prospectus was issued, and every other person who authorised or caused its issue shall be liable to indemnify the person so named or whose consent was so required against all damages, costs and expenses to which he



or she may be made liable by reason of his or her name having been inserted in the prospectus or of the inclusion in it of a statement purporting to be made by him or her as an expert, or in defending himself or herself against any action or legal proceeding brought against him or her in respect of it.

## **120. Offences in respect of untrue statements in prospectus**

(1) Where a prospectus contains a statement which is untrue, every person referred to in section 119(1), subject to subsections (3) and (4), commits an offence and is liable, on conviction, to a fine not exceeding five hundred currency points or to imprisonment for a term not exceeding five years, or both.

(2) Where there is published with or as part of a prospectus a report of an expert or an extract from that report and the report or extract contains a statement which is untrue, the expert if, he or she has given his or her consent to the inclusion of that statement in the prospectus in the form and context in which it appears, and subject to subsections (3) and (4), commits an offence, and is liable, on conviction, to a fine not exceeding three hundred currency points or to imprisonment for a term not exceeding three years, or both.

(3) In a prosecution under this section it shall be a defence if it is proved that the untrue statement was immaterial or—

- (a) with respect to every such untrue statement not purporting to be made on the Authority of an expert or of a public official document or statement, that the person charged had, after reasonable investigation, reasonable ground to believe and did up to the time of the allotment of the securities or acceptance of the offer as the case may be, believe that the statement was true, and that there was no omission to state any material fact necessary to make the statement as set out not misleading; and
- (b) with respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that the person charged had reasonable ground to believe and did believe that the person making the report or valuation was competent to make it; and
- (c) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was

a correct and fair representation of the statement or copy of or extract from the document.

(4) In a prosecution under this section, it is a defence if a person proves that—

- (a) having consented to become a director of the issuer he or she withdrew his or her consent before the issue of the prospectus, and that it was issued without his or her authority or consent; or
- (b) the prospectus was issued without his or her knowledge or consent, and that on becoming aware of its issue he or she forthwith gave reasonable public notice that it was issued without his or her knowledge or consent; or
- (c) after the issue of the prospectus and before allotment or acceptance of any securities under it, he or she, on becoming aware of the untrue statement in the prospectus, withdrew his or her consent to the prospectus and gave reasonable public notice of the withdrawal, and of his or her reason for withdrawing his or her consent.

#### **121. No diminution of liability under any other law**

Nothing in this Part shall limit or diminish liability which a person may incur under this Act apart from this Part, or under any other law.

#### **122. Time limit as to allotment or acceptance**

(1) An issuer shall not allot securities offered to the public for subscription and an offeror shall not accept an offer to purchase shares or debentures offered for sale to the public under section 111 unless the application in question is received by the company or the offeror, as the case may be, before the expiration of six months after the date of registration of the prospectus.

(2) A director or officer of a company or offeror of, if the offeror is a company, a director or officer of that company who knowingly contravenes or permits the contravention of subsection (1) with respect to allotment or acceptance of an offer, commits an offence, and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding one year, or both.

**123. No allotment unless minimum subscription received**

(1) Securities shall not be allotted on an application made in response to a prospectus for subscription unless the amount stated in that prospectus as the minimum amount which in the opinion of the directors of the issuer concerned must be raised by the issue in order to provide for the matters specified in that respect in regulations under this Act providing for the content of prospectuses has been subscribed and the amount stated has been paid to and received by the issuer.

- (2) For the purposes of subsection (1)—
  - (a) an amount stated in a cheque received by the issuer shall not be taken to have been paid to and received by it until the amount of the cheque has been unconditionally credited to its account with its banker; and
  - (b) an amount paid to and received by the issuer shall be reduced by the amount of the money, bill, promissory note or cheque which it has at any time delivered to the payer otherwise than in discharge of a *bona fide* debt due to the payer by the issuer.

(3) The amount stated in the prospectus shall be reckoned exclusively of any amount payable otherwise than in cash and is in this Act referred to as “the minimum subscription”.

(4) The amount paid on application shall be set apart by the directors as a separate fund in an escrow account with a banking institution registered under the Financial Institutions Act, and shall not be available for the purposes of the issuer or for the satisfaction of its debts until the minimum subscription has been made up.

(5) If the requirements prescribed in subsection (1) have not been complied with on the expiration of sixty days after the issue of the prospectus, money received from applicants for securities shall immediately be repaid to them without interest, and, if the money is not repaid within eighty days after the issue of the prospectus, the directors and officers of the issuer shall be jointly and severally liable to repay that money with interest at the ruling bank rate reckoned from the expiration of the period of eighty days.

(6) Any director or officer of the issuer who knowingly contravenes or permits the contravention of any provision of this section, in addition

to other liability incurred under subsection (5), commits an offence, and is liable, on conviction, to a fine not exceeding three hundred currency points or to imprisonment for a term not exceeding three years, or both.

(7) It is a defence to any claim under subsection (5), or any charge under subsection (6), to prove that the default which is the subject of the claim or charge, was not due to any misconduct or negligence on the part of the defendant or the accused.

#### **124. No allotment or acceptance if application form not attached to prospectus**

(1) An issuer shall not allot any securities if the securities have been offered for subscription, or an invitation to subscribe for the securities has been issued and an offeror shall accept an offer to purchase shares offered for sale to the public under section 111 unless the subscription or offer has been made on an application form which has been attached to, or which is accompanied by a prospectus, as required by section 106 or unless it is shown that the applicant, at the time of the application, was in possession of a copy of the prospectus or was aware of its contents.

(2) A director or officer of an offeror who knowingly contravenes or permits the contravention of subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding three hundred currency points or to imprisonment for a term not exceeding three years, or both.

#### **125. Voidable allotment where section 122, 123 or 124 contravened**

(1) An allotment made by an issuer to an applicant, or the acceptance of an offer made by an applicant, in contravention of section 122, 123 or 124 shall be voidable at the instance of the applicant concerned within thirty days after the date of allotment or acceptance, and not later.

(2) Subsection (1) applies notwithstanding that the issuer concerned may be in the course of being wound up.

(3) Where an allotment or an acceptance is declared void under subsection (1), every director and every officer of the issuer concerned or the offeror, is liable to compensate the issuer concerned and the applicant

for any loss, damages or costs which the issuer or the applicant may have sustained or incurred owing to the allotment or acceptance.

(4) Proceedings to recover a loss, damages or costs under this section shall not be commenced after the expiration of two years from the date of the relevant allotment or acceptance.

## **126. Waiting period**

(1) This section applies to equity and debt prospectuses.

(2) In this section, “waiting period” means, subject to subsection (4), seven days after the first publication of a prospectus which has been lodged or a longer period stated in the prospectus as the period before the expiration of which applications, offers or acceptances in response to the prospectus will not be accepted or treated as binding.

(3) Where the securities to which the invitation relates are dealt in on a stock exchange or where the prospectus states that application has been or will be made for permission to deal in the securities on a stock exchange, and it is necessary to advertise the prospectus in one or more newspapers to comply with the requirements of that stock exchange, the publication of the prospectus shall not be taken to have occurred until the prospectus is advertised.

(4) A binding contract or legally enforceable obligation, other than a *bona fide* underwriting agreement in respect of any shares or debentures to which this section applies, shall not be entered into in response to an invitation to the public in respect of shares or debentures of a public company until after the expiration of the waiting period, and an application, offer or acceptance by a person in response to the invitation shall be recoverable by that person at any time before the expiration of the waiting period.

## **127. Restriction or alteration of terms mentioned in prospectus**

(1) A company limited by shares or a company limited by guarantee and having a share capital shall not prior to the statutory meeting vary the terms of a contract referred to in the prospectus, except on the condition that it is subject to the approval of the statutory meeting.

(2) This section does not apply to a private company but applies to a company that was a private company before becoming a public company.

### **128. Prohibition of issue of prospectus in respect of private companies**

(1) A person shall not issue a prospectus relating to a private company.

(2) Any person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred currency points or to imprisonment for a term not exceeding five years, or both.

### **129. Continuous disclosure**

(1) Subject in the case of a listed issuer to subsection (10), every issuer of securities that are the subject of a public offer or which are publicly held, in the case of a non-listed issuer, shall keep the Authority and in the case of a listed issuer, the stock exchange, informed promptly of any information relating to the issuer and its subsidiaries if any, that—

- (a) is necessary to enable them and the public to appraise the financial position of the issuer and of its subsidiaries;
- (b) might reasonably be expected materially to affect market activity in securities of or otherwise affect its subsidiaries; or
- (c) might reasonably be expected materially to affect market activity in the price of its securities.

(2) An issuer of securities that are not listed on a stock exchange, shall issue promptly press releases informing the public of the matters referred to in subsection (1)(a), (b) and (c).

- (3) Notification of the information is not required, where—
  - (a) it would be a breach of the law to disclose the information;
  - (b) the information concerns an incomplete proposal or negotiations;
  - (c) the information comprises matters of supposition or is insufficiently definite such that it would be misleading to the market for it to be disclosed;
  - (d) the information is generated solely for the purposes of the internal management of the issuer and its advisers; or
  - (e) the information is a trade secret.

(4) The Authority may, in the case of a listed issuer, require the issuer by notice to provide the Authority immediately with a copy of the information notified to the stock exchange.

(5) In addition to the requirements of subsection (1), every issuer shall—

- (a) keep records which shall not be available for inspection by the public or disclosure to any person other than the Authority, of all persons who hold securities of the issuer as nominees or in trust on behalf of other persons;
- (b) comply with further obligations and requirements as may be prescribed by regulations made under this Act.

(6) The Authority may require the issuer to furnish to it the information referred to in subsection (5)(a) and for that purpose the issuer may by notice to the holder of the securities require the holder within seven days to state whether the securities are held as nominee or on trust and if so provide the issuer with the name and address of the beneficial owner of the securities.

(7) For the avoidance of doubt, this section applies to the issuer of securities publicly held prior to the coming into operation of this Act.

(8) An issuer of securities that fails or neglects to comply with this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding eight years, or both.

(9) Where a holder of securities fails to provide the issuer with the information required to be provided in response to a notice given under subsection (6) the issuer may seek the assistance of the Authority in obtaining that information.

(10) The requirement to disclose under subsection (1) shall not derogate from any continuous disclosure requirements in the case of listed issuers which are prescribed in listing or other rules of the relevant stock exchange.

(11) It shall be sufficient compliance with the requirements of subsection (1) in the case of a listed issuer, if disclosure in relation to the

matters referred to in subsection (1) is made to the stock exchange on which the securities are listed in accordance with the listing rules of the exchange.

(12) In this section, “trade secret”, means information including a formula, pattern, compilation, programme, method, technique, or process, or information contained or embodied in a product, device or mechanism which—

- (a) is, or may be used in a trade or business;
- (b) is not generally known in that trade or business;
- (c) has economic value from not being generally known; and
- (d) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

### **130. Regulations in relation to this Part**

Without prejudice to the general effect of section 149, the Authority shall make regulations for the purposes of this Part that provide for

- (a) matters that are to be stated in a prospectus;
- (b) matters that are to be stated in a short-form prospectus;
- (c) requirements and obligations placed on issuers with respect to providing continuous disclosure under section 126;
- (d) requirements or obligations in relation to the approval and making of an introduction of securities for offer in Uganda;
- (e) requirements and obligations relating to the listing of securities including the form and contents of any information memorandum to be furnished by or on behalf of an issuer whose securities are accepted for listing;
- (f) requirements or obligations placed on substantial shareholders in relation to disclosure of the acquisition or disposal of a substantial shareholding in an issuer; and
- (g) other matters relevant to the offering, issue and listing of securities that are offered to the public and the restraining or prohibition of misleading or non-complying offers.



PART XIII—CAPITAL MARKETS TRIBUNAL

**131. Establishment and constitution of Tribunal**

(1) There is established a Tribunal to be known as the Capital Markets Tribunal which shall consist of the following members appointed by the Minister

- (a) a Chairperson who at the time of his or her appointment is a person qualified to be a judge of the High Court;
- (b) an advocate with at least seven years experience in the commercial and corporate sector;
- (c) an accountant who has been in practice for not less than seven years; and
- (d) two persons who have demonstrated competence in the field of securities.

(2) The appointment of a Chairperson under subsection (1)(a) shall be in consultation with the Judicial Service Commission.

(3) The Tribunal shall have a Secretary who shall be appointed by the Minister and who shall be a person qualified to be a registrar of the High Court with at least five years practice in securities matters.

(4) The Secretary shall be in charge of the registry of the Tribunal and shall be responsible for keeping records and the seal, conducting correspondences and performing such other functions necessary for purposes of assisting the Tribunal to perform its functions under section 133.

(5) The tenure of office for a member of the Tribunal under subsection (1), shall be for three years and is eligible for re-appointment for one more term.

- (6) The office of a member of the Tribunal shall become vacant
  - (a) at the expiration of three years from the date of his or her appointment;
  - (b) if he or she accepts any office the holding of which, if he or she were not a member of the Tribunal, would make him or her ineligible for appointment to the office of a member of the Tribunal;

- (c) if he or she is removed from membership of the Tribunal by the Minister for failure to attend three consecutive meetings of the Tribunal without good cause or is unable to discharge the functions of his or her office whether arising from infirmity of body or mind or from any other cause or for misbehaviour; or
- (d) if he or she resigns from the office of a member of the Tribunal.

### **132. Seal of Tribunal**

- (1) The Tribunal shall have a seal which shall be judicially noticed.
- (2) The seal of the Tribunal shall be affixed by or with the Authority of the Tribunal, to such documents as are required by a direction of the Chairperson to be sealed with the seal of the Tribunal.

### **133. Functions of Tribunal**

- (1) The Tribunal shall hear and determine the following matters—
  - (a) any disciplinary action referred to the Tribunal by the Authority relating to the conduct of a securities exchange or any of its officers or a licensed person;
  - (b) any complaint made to the Authority, by an investor in relation to the conduct of an approved person or an approved securities exchange and referred by the Authority to the Tribunal;
  - (c) any inquiry into the conduct of a licensed person or approved person or approved securities exchange or issuer or other market participant in relation to any conduct or activity affecting the securities market referred to the Tribunal by the Authority;
  - (d) any appeal to the Tribunal from a decision of the Authority made under section 21, 42(6), 45(4), 50 or 52(4);
  - (e) a matter referred by the Authority to the Tribunal under section 55;
  - (f) any claim for compensation from the Investor Compensation Fund; and
  - (g) any other matter concerning this Act requiring inquiry and adjudication which the Authority may refer to the Tribunal.
- (2) An award made by the Tribunal shall be notified by the Tribunal to the parties concerned, and to the Authority.

**134. Proceedings before Tribunal**

(1) For the purposes of a hearing before the Tribunal, the Tribunal shall have all the powers of the court to summon witnesses, to take evidence upon oath or affirmation and to call for the production of books and other documents.

(2) Where the Tribunal considers it desirable for the purposes of avoiding expense or delay, or for any other special reason, it may receive evidence by affidavit and administer interrogatories within a time specified by the Tribunal.

(3) The Tribunal may, in the determination of any matter, take into consideration any evidence which it considers relevant to the matter before it, notwithstanding that, that evidence would not otherwise be admissible under the law relating to evidence.

(4) Anything said or any information furnished or any document produced or tendered, or any evidence given, by any person to the Tribunal shall be privileged in the same manner as if that statement, document or evidence were made, furnished, produced, or given in proceedings in court.

(5) All summons, notices or other documents issued and signed by the Chairperson of the Tribunal shall be deemed to be issued by the Tribunal.

(6) An interested party may be represented before the Tribunal by an advocate or by any other person whom the Tribunal may admit to be heard on behalf of that party.

(7) The Tribunal shall sit at such times and in such places as it may appoint.

(8) The proceedings of the Tribunal shall be open to the public, except where the Tribunal for good cause, otherwise directs.

(9) Except where expressly provided in this Act, the Tribunal shall determine its own procedure.

(10) For the purposes of hearing and determining any cause or matter under this Act, the Chairperson and two members of the Tribunal shall form a quorum.

(11) A member of the Tribunal who has an interest in any matter which is the subject of the proceedings of the Tribunal shall not take part in those proceedings.

(12) In determining any matter before it other than an appeal, the Tribunal shall have the same powers on the making of a decision as are conferred on the court by section 23.

### **135. Appeals before Tribunal**

- (1) Upon any appeal, the Tribunal may—
  - (a) confirm, set aside or vary the order or decision in question;
  - (b) exercise any of the powers which could have been exercised by the Authority or any of its committees in the proceedings in connection with which the appeal is brought, including any powers under section 23; or
  - (c) make such other order, including an order for costs in accordance with subsection (4), as it may consider appropriate.

(2) Upon an appeal to the Tribunal under this section, the *status quo* of any matter or activity, which is the subject of the appeal, shall be maintained until the appeal is determined.

(3) Where an appeal has been lodged with the Tribunal against any decision of the Authority, the decision of the Authority shall remain in force until the final decision of the Tribunal is delivered.

(4) The Tribunal may award costs of any proceedings before it and may direct that costs shall be paid in accordance with any scale prescribed for suits in the court or to award a specific sum as costs.

(5) Where the Tribunal awards costs in an appeal, it shall, on application by the person to whom the costs are awarded, issue to that person a certificate stating the amount of the costs.

(6) A certificate issued under subsection (5) may be filed in the court by the person in whose favour the costs have been awarded and, upon being filed, shall be deemed to be a decree of the court and may be executed as such.

(7) The Chief Justice may make rules governing the making of appeals and providing for the fees to be paid to the Tribunal, the scale of costs of any such appeal, the procedure to be followed in the Tribunal, and the manner of notifying the parties to the proceedings, and until such rules are made, and subject to those rules, the provisions of the Civil Procedure Act shall apply as if the matter appealed against were a decree of a subordinate court exercising original jurisdiction.

### **136. Remuneration of Tribunal**

(1) There shall be paid to the Chairperson, Secretary and the members of the Tribunal, such remuneration and allowances as the Minister may determine.

(2) All expenses of the Tribunal after deduction of any fees received by the Tribunal shall be charged on the Consolidated Fund.

### **137. Appeals from Tribunal**

(1) A party to proceedings before the Tribunal who is dissatisfied by a decision or order of the Tribunal on a point of law may, within thirty days after the decision or order, appeal against the decision or order to the High Court.

(2) A decision or order of the Tribunal shall not be enforced until the time for lodging an appeal has expired or, where the appeal has been commenced, until the appeal has been determined.

- (3) Upon the hearing of an appeal under this section, the court may—
- (a) confirm, set aside or vary the decision or order in question;
  - (b) remit the proceedings to the Tribunal with such instructions for further consideration, report, proceedings or evidence as the court may consider fit to give;

- (c) exercise any of the powers which could have been exercised by the Tribunal in the proceedings in connection with which the appeal is brought; or
- (d) make such other order as it may consider just, including an order as to the costs of the appeal of earlier proceedings in the matter before the Tribunal.

PART XIV—MISCELLANEOUS

**138. Restriction on use of title “stock broker” or “stock exchange”**

(1) A person who is not a broker within the meaning of this Act shall not use or by inference, adopt the name or title of stock broker or dealer or share broker or share dealer or stock dealer or exhibit at any place a name, title or description implying or tending to create the belief that the person is a securities broker or dealer entitled to conduct brokerage or dealing business as contemplated under this Act.

(2) A person who does not hold a licence in relation to any licensed activity under this Act shall not use, or by inference, adopt a name or title or description implying or tending to create the belief that the person is the holder of the relevant licence and entitled to conduct the licensed activity in question.

(3) A body corporate that is not an approved securities exchange, shall not, without the consent in writing of the Authority, use or by inference adopt the name or title of securities exchange or stock exchange or exhibit at any place a name, title or description implying or tending to create the belief that the body corporate is a stock exchange or securities exchange.

(4) A body corporate that is not an approved commodities exchange, shall not, without the consent in writing of the Authority, use or by inference, adopt the name or title of the commodities exchange, futures exchange or derivatives exchange or exhibit at any place a name, title or description implying or tending to create the belief that the body corporate is a commodities exchange, futures exchange or derivatives exchange.

(5) A person shall not, except with the consent in writing of the Authority, use the words “Capital Markets Authority” or “capital markets regulator” as part of its name or description or use any name, title or

description implying or tending to create the belief that it is authorised by or linked to the Authority.

(6) Any person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding five years, or both.

### **139. Offences by directors or managers, etc.**

(1) A director or manager of a stock exchange or of a broker or dealer or of an investment adviser, who—

(a) fails to take all reasonable steps to ensure compliance with this Act; or

(b) fails to take all reasonable steps to ensure the accuracy and correctness of any statement submitted by him or her under this Act,

commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding four years, or both.

(2) In any proceedings against a person under subsection (1), it is a defence for such person to prove that he or she had reasonable grounds for believing that another person was charged with the duty of ensuring compliance with the requirements of this Act, or with the duty of ensuring that those statements were accurate, and that, that person was competent and in a position to discharge that duty.

(3) A person shall not be sentenced to imprisonment for any offence under subsection (1) unless, in the opinion of the court, he or she committed the offence wilfully.

### **140. Falsification of records by directors, employees and agents**

A director, manager, auditor, employee or agent of a stock exchange or of a broker or dealer of an investment adviser, who—

(a) wilfully makes, or causes to be made, a false entry;

(b) wilfully omits to make an entry or causes an entry to be omitted; or

(c) wilfully alters, abstracts, conceals or destroys an entry or wilfully causes an entry to be altered, abstracted, concealed or destroyed

in any book or in any report, slip, document or statement of the business, affairs, transactions, conditions, assets or accounts of that stock exchange, broker or dealer or investment adviser, commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding eight years, or both.

#### **141. False reports to Authority or stock exchange**

Any person who, with intent to deceive, makes or furnishes, or knowingly and wilfully authorises or permits the making or furnishing of, any false or misleading statement or report to the Authority, a stock exchange or any officers of the Authority relating to—

- (a) any dealing in securities;
- (b) any matter or thing required by the Authority for the proper administration of this Act; or
- (c) the enforcement of the rules of a stock exchange,

commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding eight years, or both.

#### **142. Immunity of Authority and its employees, etc.**

(1) No action or other legal proceedings shall lie against the Authority or any officer or employee of the Authority or any person, including a stock exchange, acting under the direction of the Authority for any act done or purported to be done in good faith in the performance or intended performance of any duty, or in the exercise of any power under this Act or the regulations.

(2) A member of the Board or any officer or employee of the Authority shall not be personally liable in respect of any act or omission done in good faith in the performance of his or her functions under this Act.

(3) For the avoidance of doubt, nothing in subsection (1) shall absolve from liability any officer or employee of the Authority for any act referred to in that subsection if in relation to that act he or she acted in bad faith.



**143. Offences by body corporate**

Where a body corporate commits an offence under this Act, any director, executive officer, secretary or employee of the body corporate who was in any way, by act or omission, directly or indirectly, knowingly concerned in, or a party to, the commission of the offence shall also be taken to have committed the offence.

**144. Power of court to prohibit payment or transfer of money, securities or other property**

- (1) Where—
  - (a) an investigation is being carried out under this Act in relation to any act or omission by a person which constitutes or may constitute an offence under this Act;
  - (b) a prosecution has been instituted against a person for an offence under this Act; or
  - (c) civil proceedings have been instituted against a person under this Act,

and the court considers it necessary or desirable for the purpose of protecting the interests of any persons to whom the person referred to in paragraph (a),

(b) or (c) of this subsection, referred to in this section as the relevant person, is liable or may become liable to pay any money, whether in respect of a debt, or by way of damages or compensation or otherwise account for any securities or other property, the court may, on application by the Authority, make any one or more of the orders specified in subsection (2).

- (2) The court may make—
  - (a) an order prohibiting, either absolutely or subject to conditions, a person who is indebted to the relevant person or to any person associated with the relevant person from making a payment in total or partial discharge of the debt;
  - (b) an order prohibiting, either absolutely or subject to conditions, a person holding money, or securities or other property, on behalf of the relevant person or on behalf of any person associated with the relevant person, from paying all or any of the money, or transferring, or otherwise parting with possession of the securities or other property to any person;

- (c) an order prohibiting, either absolutely or subject to conditions, the taking or sending out of Uganda of money of the relevant person or of any person associated with the relevant person;
- (d) an order prohibiting, either absolutely or subject to conditions, the taking, sending or transfer of securities or other property of the relevant person or of any person who is associated with the relevant person from a place in Uganda to a place outside Uganda, including the transfer of securities from a register in Uganda to a register outside Uganda;
- (e) an order appointing a receiver or a receiver and manager, with such powers as the court may order, of the property or part of the property of that person;
- (f) an order where the relevant person is an individual—
  - (i) requiring him or her to deliver up to the court his or her passport and such other documents as the court considers fit; or
  - (ii) prohibiting him or her from leaving Uganda without the consent of court.

(g) Where an application is made to the court for an order under subsection (1), the court may, before considering the application, on an application of the Authority grant an interim order pending the determination of the original application.

(4) Where the Authority makes an application to the court for an order under subsection (1), the court shall not require the Authority or any other person, as a condition of granting an interim order under subsection (3), to give any undertakings as to damages.

(5) Where the court has made an order under this section, the court may, on application by the Authority or by any person affected by the order, make a further order rescinding or varying the earlier order.

(6) An order made under this section may be expressed to operate for a period specified in the order or until the order is rescinded by a further order under subsection (5).

(7) Any person who contravenes an order by the court under this section applicable to that person commits an offence and is liable, on conviction, to a

fine not exceeding two hundred currency points or to imprisonment for a term not exceeding eight years, or both.

#### **145. Injunctions and orders of mandamus**

(1) Where a person has engaged or attempts to engage in any conduct that constitutes or would constitute a contravention of this Act, the court may, on the application of—

- (a) the Authority; or
- (b) any person whose interests have been, are or would be affected by that conduct,

grant an injunction restraining the person from engaging in the conduct.

(2) Where a person refuses or fails to do an act or thing that the person is required by this Act to do, the court may, on the application of—

- (a) the Authority; or
- (b) any person whose interest has been, is or would be affected by the refusal or failure to do the act or thing,

issue an order of mandamus requiring the person to do that act or thing.

(3) The powers of the High Court relating to orders of injunctions and mandamus shall apply to any act or omission under this Act.

(4) Where the court has power under this section to grant an injunction restraining a person from engaging in a particular conduct or an order of mandamus requiring a person to do a particular act or thing, the court may, either in addition to or in substitution for the grant of the injunction or order of mandamus, order that person to pay damages to any other person.

#### **146. Offences and penalties**

(1) Any person who contravenes section 39 or 50 commits an offence.

(2) Any person who commits an offence under subsection (1) or who commits any other offence under this Act for which no specific penalty is provided is liable, on conviction, to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding eight years, or both.

**147. Civil penalties**

Notwithstanding any other law the Authority may impose and collect civil penalties by way of fines against any person found by the Authority in breach of any requirement of this Act or the regulations made under it.

**148. Proceedings for offences under this Act**

Prosecution for an offence against any provision of this Act may be taken by the Director of Public Prosecutions or where the Director of Public Prosecutions so directs, by the Authority or any person appointed for that purpose.

**149. Regulations**

(1) The Authority may make regulations prescribing any matter required or permitted by this Act to be prescribed, and for carrying out or giving effect to this Act.

(2) Without prejudice to the general effect of subsection (1), regulations may provide for—

- (a) the forms to be used for the purposes of this Act;
- (b) the fees to be charged for the regulated activities in the capital markets by the Authority;
- (c) the publication of advertisements offering the services of an approved person or offering securities for purchase or sale, and the form and content of those advertisements;
- (d) the form of balance sheets and profit and loss accounts required by this Act to be prepared by approved persons;
- (e) the furnishing to the Authority of periodic information by licensees and information in addition to, or in variation of the information contained in a prescribed form lodged with the Authority;
- (f) the times within which information required to be furnished to the Authority under this Act shall be furnished;
- (g) the procedures under which and the conditions on which a public company may appeal to the Tribunal against a refusal of a securities exchange or the Authority to list its securities or a decision of a securities exchange to suspend trading in its securities;

- (h) exempting any person from the application of any provision of this Act;
- (i) maintenance of a register of interests in securities;
- (j) prescribing the relevant educational qualifications and experience required for a person to be granted a licence under this Act;
- (k) the conduct of business by approved persons;
- (l) the administration of the Investor Compensation Fund;
- (m) the publication of advertisements in respect of securities, prospectuses and other offering documents by issuers of securities and the form and contents of such advertisements and prospectuses and the restraining or prohibition of misleading or non-complying advertisements;
- (n) terms and conditions of licences or any approval or authorisation granted under this Act or under regulations made under it;
- (o) matters incidental to the licensing of any persons or grant of any approval or authorisation under this Act;
- (p) the form and contents of financial statements to be maintained and submitted to the Authority by licensees and their representatives appointment, removal, fees and expenses of auditors;
- (q) postponing the application of this Act for three months in respect of persons acting as stock brokers or dealers or carrying out any other activity on the commencement of this Act to which this Act would otherwise have applied;
- (r) procedures for and terms and conditions of licences in respect of activities prescribed under section 62;
- (s) arrangements for the communication of information, confidential or not, or the taking of evidence or the holding of an inquiry on behalf of, a regulator outside Uganda which the Authority considers may assist the regulator in the performance of its functions;
- (t) provisions requiring an approved securities exchange to establish and maintain a fidelity fund under procedures approved by the Authority for the compensation of persons who suffer loss by reason of any beneficiary by an approved stock exchange, or any of its directors or employees or dealing members;
- (u) provisions requiring licensed persons to establish and maintain policies and procedures to guard against the use of capital markets for money laundering purposes and for the recognition and report to the Authority of transactions that are suspicious in relation to money laundering;

- (v) take-overs, mergers and acquisitions of securities in listed companies;
- (w) corporate governance of listed companies and market intermediaries;
- (x) the imposition by the Authority of administrative fines or a fine or fixed penalty;
- (y) matters related to capital markets and securities markets in the East African Community;
- (z) shelf registration of prospectuses;
- (aa) licensing and approval of commodities exchanges and intermediaries for commodities exchanges;
- (ab) notification and clearance events for approved persons;
- (ac) registered venture capital funds;
- (ad) asset backed securities, exchange traded funds and real estate investment trusts;
- (ae) disclosure of information by beneficial owners of securities;
- (af) the records to be kept by approved persons specifying their nature and form;
- (ag) international best practice on securities regulation and supervision; and
- (ah) administrative penalties.

(3) Except as otherwise expressly provided in this Act, regulations made under this section may be of general or specifically limited application.

(4) Regulations made under this section may prescribe, in respect of a contravention of the regulations, a penalty of a fine not exceeding two hundred currency points or imprisonment not exceeding two years, or both and in the case of a continuing offence, an additional fine not exceeding five currency points in respect of each day on which the offence continues, and the regulations may require the court to forfeit anything with which the offence is committed.

#### **150. Power to amend Schedules**

(1) The Minister may, by statutory instrument, with the approval of Cabinet, amend Schedule 1 to this Act.

(2) The Minister may, by statutory instrument, with the approval of Parliament, amend Schedule 2 to this Act.

**SCHEDULE**

*S Schedule 1*

Sections 1, 150(1)

**Currency Point**

A currency point is equivalent to twenty thousand shillings

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*Schedule 2*

Sections 1, 32(1), 150(2)

**Relevant Bodies**

1. Institute of Certified Public Accountants of Uganda
2. Insurance Institute of Uganda
3. Ministry of Trade, Industry and Cooperatives
4. Uganda Bankers Association
5. Uganda Chamber of Commerce
6. Uganda Law Society
7. Uganda Manufacturers Association

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*Schedule 3*

Sections 32(3), 33(3), 62(2)

**Criteria for Determining Fitness and Properness****Application**

This Schedule shall apply to all persons mentioned under section 32 of the Act and to all approved persons:

1. A person who is not a fit and proper person in accordance with the fit and proper criteria specified in this Schedule shall not become or remain an employee or director of the Authority or of any person that has been licensed, authorised or approved to conduct securities business or hold a representative licence.
2. The Authority shall vet all persons proposed as employees or directors of a licensed, authorised or approved person within three months after approval of an application for a licence or approval and notify the applicant accordingly.
3. For the purposes of section 9, the Minister shall vet all persons proposed as director or Chief Executive Officer of the Authority.
4. For the purposes of section 9, the Board shall vet all persons employed by the Authority.
5. An approved 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 business.
6. A board member or Chief Executive Officer shall recognise that the Minister has a continuing duty to determine whether the board member or Chief Executive Officer remains a fit and proper person for purposes of carrying on functions under the Act.
7. In determining whether a person is fit and proper to be employed or to manage, or direct the affairs of the Authority or to be a licensed, authorised or approved person, regard shall be made to the following, insofar as they are reasonably determinable in respect of the person concerned—



- (a) his or her general probity;
  - (b) his or her competence and soundness of judgment for the fulfilment of the responsibilities of the office in question;
  - (c) whether the interests of investors or potential investors are likely to be threatened by his or her holding that position;
  - (d) the previous conduct and activities of the person concerned in business or financial matters;
  - (e) the outcome of any investigation of the person in any country by a government agency, professional association or other regulatory body.
8. Any of the following factors constitutes *prima facie* evidence that the person does not qualify as fit and proper—
- (a) a person who has been found guilty in any criminal proceedings or liable in any civil proceedings by a court of law, whether in Uganda or elsewhere, of having acted fraudulently, dishonestly, unprofessionally, dishonourably or in breach of duty;
  - (b) a person who has been dismissed from practice by a professional body on account of dishonesty, negligence, incompetence, or mismanagement sufficiently serious to impugn the honesty and integrity of the licensed person;
  - (c) a person who has been declared bankrupt;
  - (d) a person who has taken part in any business practice that, in the opinion of the Authority, was deceitful or oppressive, fraudulent, prejudicial or otherwise improper whether unlawful or not or which otherwise reflects discredit on his or her method of conducting business; and
  - (e) a person who has been dismissed from membership of a board of directors of a company conducting financial services or removed from holding public office.

*Schedule 4*

## Section 38

**Meetings of Board and Other Matters****1. Meetings of Board**

(1) The Chairperson shall convene a meeting of the Board at such time and place as the Board may determine and the Board shall meet for the discharge of business at least four times in every year.

(2) Notice of a meeting of the Board shall be given in writing to each member at least fourteen days before the day of the meeting except that a shorter notice may be given for a special meeting.

(3) The Chairperson may, at any time, convene a special meeting of the Board and may also call a special meeting if so requested by five members of the Board.

(4) The Chairperson shall preside at all meetings of the Board and in his or her absence a member elected by the members present shall preside.

**2. Quorum**

The quorum at a meeting of the Board is five members.

**3. Minutes of meeting of Board**

(1) The Secretary shall cause to be recorded and kept, minutes of all meetings of the Board in a form approved by the Board.

(2) The minutes recorded under this paragraph shall be submitted to the Board for confirmation at its next meeting following that to which the minutes relate and when so confirmed, shall be signed by the Chairperson and the Secretary in the presence of the members present at the latter meeting.

**4. Decisions of Board**

(1) The decisions of the Board shall be by majority vote.

(2) A member shall have one vote and in case of an equality of votes, the Chairperson of the Board, or other person presiding shall have a casting vote.

#### **5. Power to co-opt**

(1) The Board may invite any person who, in the opinion of the Board has expert knowledge concerning the functions of the Board, to attend and take part in the proceedings of the Board.

(2) A person attending the meeting of the Board under this paragraph may take part in any discussion at the meeting on which his or her advice is required but shall not have any right to vote at that meeting.

#### **6. Disclosure of interest of members**

(1) A member of the Board who has any pecuniary or other interest in a matter being considered by the Board shall, as soon as possible after relevant facts have come to his or her knowledge, disclose the nature of his or her interest to the Board.

(2) A member making a disclosure under subparagraph (1) shall not be present during any deliberation of the Board with respect to that matter, or vote on, any question relating to the matter.

(3) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(4) For the purposes of determining whether there is quorum, a member withdrawing from a meeting or who is not taking part in a meeting under subparagraph (3) shall be treated as being present.

#### **7. Validity of meetings not affected by vacancy, etc.**

The validity of any proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment or qualification of a member or by reason that a person not entitled took part in its proceedings.

**8. Board to regulate proceedings**

Subject to this Act, the Board may regulate its own procedure or any other matter relating to its meetings.

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**History:** Statute 1/1996; S.I. 28/1996; S.I. 40/1996; Cap. 84 (Revised Edition, 2000); Act 4/2003; Act 12/2011; Act 8/2016; Act 17/2023

**Cross References**

Accountants Act, Cap. 294  
Anti-Money Laundering Act, Cap. 118  
Civil Procedure Act, Cap. 282  
Collective Investment Schemes Act, Cap. 65  
Companies Act, Cap. 106  
Financial Institutions Act, Cap. 57  
Securities Central Depositories Act, Cap. 60

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