

**THE CAPITAL MARKETS AND SECURITIES ACT, 1994  
(CAP.79)**

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REGULATIONS

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*Made under section 148 (2)*

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THE CAPITAL MARKETS AND SECURITIES (NOMINATED ADVISERS)  
REGULATIONS, 2008

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ARRANGEMENT OF REGULATIONS

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## **PART I PRELIMINARY PROVISIONS**

Short Title and Commencement                    **1.**-These Regulations may be cited as the Capital Markets and Securities (Nominated Advisers) Regulations, 2008 and shall come into operation on the date of publication.

Interpretation                                **2.**- In these Regulations, unless the context requires otherwise-

Cap. 79                                         “Act” means the Capital Markets and Securities Act, 1994;

“Authority” shall have the meaning ascribed to it under the Act;

“Enterprise Growth Market (EGM)” means a stock market segment that facilitates trading of securities of start up, small and medium size companies, in these Regulation referred to as EGM;

“Nominated Adviser” means a company licensed by the Authority to undertake the responsibilities set out in the Fourth Schedule;

“Nominated Adviser’s Representative” means a person in the full time employment of a Nominated Adviser, who performs for such Nominated Adviser any of the functions of the Nominated Adviser whether his remuneration is by way of salary, wages, commission or otherwise, and includes any director or officer of Nominated Adviser who performs for such a Nominated Adviser any of the said functions.

“Small or Medium size company” means

## **PART II ELIGIBILITY CRITERIA**

General Provisions                         **3.** - (1) The criteria set out in Regulation 4 are the requirements that an applicant shall satisfy before the Authority considers approving the applicant as a Nominated

Adviser.

(2) The criteria set out in Regulation 4 shall be in addition to any legal or regulatory authorization required by an applicant in any jurisdiction in which it operates.

(3) The requirements under these Regulations are not exhaustive with regards to the criteria and obligations of the Nominated Advisers and Authority shall exercise discretion as to the application and interpretation of the criteria, as it thinks fit.

(4) Subject to sub regulation (3) of this Regulation the Authority may-

- (a) refuse to grant a license;
- (b) grant or renew a license subject to any conditions or restrictions;
- (c) at any time, by written notice to a license holder, vary any condition or restriction in relation to the license.

(5) In deciding whether or not an applicant may be licensed as a Nominated Adviser or Nominated Adviser's Representative, the Authority's overriding consideration will be the preservation of the reputation and integrity of EGM including but not limited to the regulatory obligations of the Authority to ensure the development and integrity of the capital market.

Eligibility  
Criteria for  
Nominated  
Adviser

Cap. 212

**4.-** (1) An applicant seeking a license as a Nominated Adviser shall-

- (a) be a company duly incorporated under the Companies Act, 2002;
- (b) have Memorandum and Articles of Association which restricts the business of the company to only nominated advisory services;

- (c) have and maintain suitable facilities for carrying on business including office space, operational systems, appropriate equipment and personnel;
- (d) employ at least one person who shall be licensed as a Nominated Adviser's Representative;
- (e) have a net capital of two billion shillings; and
- (f) have acted on at least three of the following transactions during the two-year period preceding the application:
  - (i) corporate financing advisory role involving financial planning services in analysing the financial circumstances of a company and providing a plan to meet that other company's financial needs ;
  - (ii) business creation and institutional building;
  - (iii) reorganization and restructuring of a company;
  - (iv) the arrangement, takeover or merger of a corporation or any of its assets or liabilities;
  - (v) examining the technical, managerial, commercial, economic and financial aspects of the company, establishing the necessary operational infrastructure and , determining the price at which the securities of the company shall be offered to the public; and
  - (vi) the publication of an offer document and application for listing of shares on a stock exchange.

(2) The Authority may waive the requirement for the applicant to have a two-year track record and/or three transactions referred to in Regulation 4(1)(f) where it determines that the applicant has highly experienced Nominated Advisers Representatives such as in the case where the Nominated Adviser's Representative has moved from an existing Nominated Adviser.

(3) The requirement to practice in transactions referred to in Regulation 4(1) (f), means that the Nominated Adviser has participated in the transaction referred to in Regulation 4 (1)(f) as opposed to the provision of legal advice or accounting services which would not qualify for the purposes of the criteria.

Eligibility Criteria  
for Nominated  
Adviser's  
Representative

**5.- (1)** A person seeking a license as a Nominated Advisers Representative shall-

- a) have at least a first degree in Accounting, Finance, Economics, Law or other relevant degree;
- b) have participated and passed the CMSA securities certification examination for Nominated Adviser Representative;
- c) have practical experience in corporate finance transactions on restructuring and reorganization of companies and transforming them into profitable ventures;
- d) have good track record of promoting and implementing successful corporate reforms;
- e) have acted as Lead Consultant or Advisor in a corporate finance advisory role, which may include regulating issues relating to corporate finance, for at least the last three years;
- f) be in full time employment of a Nominated Adviser;
- g) have good reputation and character;
- h) demonstrate a sound understanding of the capital markets operations in general and EGM in particular;
- i) have no record of being convicted in Tanzania or elsewhere of an offence

involving fraud or dishonesty punishable on conviction with imprisonment for a term of three months or more;

- j) have not been adjudged bankrupt anywhere;
- k) have no record of being subject to disciplinary action by any regulator or other law enforcement agency in the context of financial services.

(2) A Nominated Adviser's Representative license shall only be granted to a natural person.

### **PART III APPLICATION PROCESS**

Application  
Process

**6.-(1)** An applicant seeking a licence as a Nominated Adviser or Nominated Adviser's Representative shall complete and submit to the Authority the following:

- (a) Form **NA1** set out in the First Schedule;
- (b) Form **NA2** set out in the First Schedule in respect of each proposed Nominated Advisers' Representative;
- (c) all supporting documentation requested in the Forms and in particular the declaration set out in the Second Schedule;
- (d) a cheque made payable to Capital Markets and Securities Authority in respect of the application fee payable that is set out in the Third Schedule of these Regulations; and
- (e) a readiness Checklist which covers the applicant's policies and operational manuals or procedures, its risk management system, organization structure, investment policies, procedures for compliance with applicable laws, regulations, rules and guidelines, its systems and internal controls.

(2) An application for a Nominated Advisers

Representative license shall be made to the Authority by a Nominated Adviser or an applicant for a Nominated Adviser License.

(3) The Authority may request any other information, documentation or confirmations from the applicant or other persons as it may require in order to consider the application.

(4) The Authority shall consider an application and inform the applicant of its decision within 45 days after an application has been lodged with it provided that where further information has been required in accordance with Regulation 6(3), the period of 45 days shall be calculated from the time when further information is submitted to the Authority.

(5) If no decision is made by the Authority within the period stated in Regulation 6(4), the respective application shall be deemed to have been refused.

Application and other fees

**7.**-(1) The application fee shall be in accordance with the fee set out in the Third Schedule to these Regulations.

(2) The application fee shall be non-refundable.

(3) In addition to the Application fee, a Nominated Adviser and Nominated Adviser's Representative shall pay the fees set out in the Third Schedule to these Regulation and shall make such payments within the time limits imposed by the Authority.

Interview and verification

**8.**-(1) The Authority may conduct interviews in order to assess the competence and suitability of the proposed Nominated Adviser's Representative to ensure that he has sufficient understanding of the legal and regulatory framework for EGM and the responsibilities of the Nominated Adviser under the law.

(2) The interviews shall be conducted at the Authority.

(3) The costs incurred by the Authority in



accommodation and travel in visiting the applicant's premises shall be reimbursed by the applicant.

(4) The Authority may conduct an inspection of the applicant's premises or readiness examination to ascertain the readiness of the applicant to commence activities.

Notification to  
the public

**9.-** At least fourteen days before the Authority determines whether or not to approve an applicant, it shall publish the applicant's name and its proposed Nominated Adviser's Representative together with any other information the Authority thinks necessary in order to give public notice of the application.

Approval  
process

**10.-(1)** As part of the licensing process, the Authority shall take the following into account:

- (a) the applicant Nominated Adviser and Nominated Adviser's Representative general reputation through vetting reports from the law enforcement agencies and other authorities;
- (b) commercial and regulatory performance of the applicant's Nominated Adviser clients to whom he has given advice;
- (c) similar initial public offerings or other major corporate transactions for listed companies on major stock exchanges including mergers and acquisitions requiring the publication of a public offering document.

(2) The Authority shall not consider a transaction as relevant unless the applicant or its employee acted as a lead corporate financial adviser and was named prominently and unequivocally as such in the public documentation pertaining to that transaction.

(3) Copies of the public documentation must be included with the application to become a Nominated Adviser.

(4) Where an applicant has acted as lead financial adviser on one of the above transactions but was not, in the official list of advisers, the Authority shall take into account whether the activities conducted by the applicant in relation to such transaction(s) are similar to those set out in the Fourth Schedule to these Regulations.

(5) Subject to the provision of sub regulation (4) of this Regulation, the applicant shall submit to the Authority proof that he acted as head financial adviser to the relevant transaction.

Period  
of  
license

**11.-(1)** A license of Nominated Adviser shall expire at the end of three years from the date of issue.

(2) A license of a Nominated Advisers' Representative shall expire at the end of one year from the date of issue.

Application  
for  
Renewal  
Of  
License

**12.-(1)** An application for a renewal of a license shall be made to the Authority one month before the expiry of a license in the prescribed form and manner and shall be accompanied by the prescribed fee.

(2) The Authority shall not refuse to renew a license without first giving the holder of a license an opportunity of being heard.

Revocation,  
Suspension of  
license

**13.-** The provisions of section 46 of the Act relating to the suspension and revocation of a license shall apply mutatis mutandis to these Regulations.

Appeals against  
suspension or  
revocation of  
Nominated  
Adviser licence

**14. - (1)** An applicant shall be informed in writing of the decision of the Authority concerning whether or not the applicant has been approved as a Nominated Adviser or a Nominated Adviser's Representative as the case may be.

(2) Any decision of the Authority refusing to grant, suspend or revoke a license under these Regulations may be appealed by an applicant in accordance with section 48 of

the Act.

#### **PART IV RESPONSIBILITIES OF A NOMINATED ADVISER**

Assessment  
of an EGM  
company

**15.**-(1) A Nominated Adviser to an EGM company shall, pursuant to the Fourth Schedule, be responsible to the Authority for assessing the appropriateness of an applicant for EGM, or an existing EGM company when appointed as its Nominated Adviser.

(2) Where a Nominated Adviser believes that an EGM company for which it acts as Nominated Adviser is no longer appropriate for EGM it shall promptly inform the Authority and the Exchange that it has formed such opinion.

#### **PART V CONTINUING OBLIGATIONS OF A NOMINATED ADVISER**

Continuing  
eligibility

**16.** (1) A Nominated Adviser and each representative of a Nominated Adviser, licensed, shall satisfy the requirements of Regulations 4 and 5 respectively on a continuing basis.

(2) A Nominated Adviser shall regularly consider whether the company and its Nominated Adviser's Representative continue to meet the requirements of Regulations 4 and 5.

(3) Where a Nominated Adviser forms an opinion that it or a Nominated Adviser's Representative(s) does not satisfy these requirements, it shall promptly inform the Authority.

(4) The Authority may at any time request any information it requires from a Nominated Adviser or a Nominated Adviser's Representative, in order for it to consider and determine whether a Nominated Adviser is still eligible.

(5) The Authority may at any time conduct interviews or tests of the Nominated Adviser and the Nominated Adviser's Representative in order to ensure that it has

maintained an understanding of corporate finance, these regulations and the DSE Rules for EGM companies and the provisions of Regulation 8 in relation to interviews shall apply as appropriate.

(6) Where the Authority finds that a Nominated Adviser has fallen below the criteria or a Nominated Adviser's Representative no longer fulfils the requirements of any of these Regulations, the Authority may suspend or revoke the license of a Nominated Adviser or Nominated Adviser's Representative, as the case may be, or impose conditions on the Nominated Adviser's ability to act as a Nominated Adviser including the imposition of a moratorium pursuant to Regulation 33.

Departing or  
new Nominated  
Adviser's  
Representative

**17.-(1)** Where a Nominated Adviser's Representative leaves the full-time employment of a Nominated Adviser, the Nominated Adviser shall promptly inform the Authority in writing.

(2) On leaving the full-time employment of a Nominated Adviser, a person who was a Nominated Adviser's Representative shall no longer be a Nominated Adviser's Representative under these Regulations.

(3) Where a Nominated Adviser's Representative joins another Nominated Adviser, that Nominated Adviser shall submit Form NA2 to apply for a license of that person.

(4) The Authority may, at its discretion, waive the requirement to submit Form NA2 on submission by a person who was, until recently, previously licensed as a Nominated Adviser's Representative and in such a case, a Nominated Adviser shall submit at any time Form NA2 in respect of any employee who it proposes to be licensed as a Nominated Adviser's Representative.

Notification  
requirements

**18.-(1)** A Nominated Adviser shall inform the Authority as soon as possible of any matters that may affect it being a Nominated Adviser including:

(a) changes to its name, controlling shareholders or

partners, its address or places of business;

(b) receipt of any written warning or disciplinary communication from any regulatory body; or

(c) any material adverse change in its financial or operating position, including where it is considering appointing administrators or similar practitioners.

Compliance  
with the  
Regulations

**19.-(1)** A Nominated Adviser shall observe:

(a) these Regulations, circulars, notices or guidelines issued by the Authority, the Stock Exchange or under any other authority and pursuant to any law;

(b) any rules and procedures set out in any law;

(c) any requirement, decision or direction of the Authority.

(2) Each Nominated Adviser shall nominate a person within its company to act as a compliance officer and that person shall be a senior staff within the company's corporate finance team.

(3) The compliance officer shall submit quarterly compliance reports to the Authority covering the Nominated Adviser's compliance status with the Act and these Regulations.

Due skill  
and  
care

**20.-** A Nominated Adviser shall, at all times, act with due skill and care.

Guiding  
and  
advising  
companies

**21.- (1)** Where a Nominated Adviser gives guidance or advice to an issuer in relation to the application or interpretation of these Regulations or DSE Rules for the EGM, the Nominated Adviser shall ensure that the issuer is properly guided and advised.

(2) A Nominated Adviser shall be responsible to the

Authority for advising and guiding a listed EGM company in respect of its listing and its continuing obligations on an ongoing basis.

(3) A Nominated Adviser shall be available to advise and guide EGM companies for which it acts at all times.

(4) A Nominated Adviser shall allocate at least two appropriately qualified staff to be responsible for each EGM company for which the Nominated Adviser acts in that capacity, including at least one Nominated Adviser's Representative, in order to ensure that appropriate corporate finance contact with knowledge of the EGM company is available at all times.

(5) In deciding whether a Nominated Adviser has complied with this Regulation and the undertakings it has provided to the Authority in its Nominated Adviser's Declaration, the Authority shall have regard to the matters set out in the Fourth Schedule.

Information  
obligations

**22.** - (1) A Nominated Adviser shall provide the Authority with any information, in such form and within such time limits as the Authority may reasonably require.

(2) A Nominated Adviser shall satisfy itself that all such information provided by it is correct, complete and not misleading and, if it comes to the subsequent attention of the Nominated Adviser that the information provided does not meet this requirement, the Nominated Adviser shall promptly advise the Authority.

(3) A Nominated Adviser shall liaise and be available to assist the Authority or the Exchange when requested to do so by the Authority, Exchange or an EGM company for which it acts and shall be available at all times, in particular during the Exchange's trading hours.

(4) A Nominated Adviser shall, at the earliest opportunity, seek the advice of the Authority in any situation where it is unsure as to the application or interpretation of these regulations, the DSE Rules for the EGM or where it has a concern about the reputation or integrity of the EGM.

(5) A Nominated Adviser shall inform the Authority as soon as practicable if it believes that the Nominated Adviser or an EGM company has breached the law or these regulations.

(6) All communications between the Authority and a Nominated Adviser shall be confidential and shall not be disclosed, except as required by the law.

(7) Communications obtained pursuant to these regulations may be disclosed to appropriate advisers to the Nominated Adviser or to any authority for the purpose of discharging its responsibilities under any law for the time being in force.

Ceasing to be  
Nominated  
Adviser to an  
EGM company

**23.-** A Nominated Adviser shall notify the Authority where it ceases to act for an EGM company and shall include with that notification the reason for ceasing to so act.

Independence  
on a continuing  
basis

**24.-(1)** A Nominated Adviser shall demonstrate to the Authority that the Nominated Adviser, the Board and staff of the Nominated Adviser are independent from the EGM companies for which it acts such that there is no reasonable basis for impugning the Nominated Adviser's independence.

(2) Where the Authority requires a Nominated Adviser to demonstrate clearly that neither its independence nor that of any of its staff has or will be compromised by any potential conflict of interest, the burden of proof shall be upon the Nominated Adviser.

(3) In cases of doubt about its independence a Nominated Adviser shall consult the Authority in advance of entering into any arrangements.

(4) A Nominated Adviser shall comply with the provisions of Fifth Schedule which set out further requirements in relation to the independence of a Nominated Adviser.

Conflicts of Interest

**25.** - (1) A Nominated Adviser shall not have and shall take care to avoid, situations or semblance situations of a conflict between the interests of the EGM companies for which it acts and those of any other party.

(2) In particular, a Nominated Adviser shall not-

- a) act for any other party to a transaction or take-over other than its EGM company client.
- b) act as both reporting Accountant and adviser to the EGM company;
- c) have a director, employee or associate of any such director or employee who holds position of a director of an EGM company for which the company acts as an adviser; and
- d) allow a director or employee or associate of such director or employee to deal in the securities of an EGM company for which the Nominated Adviser acts as an adviser during any close period of that company.

Procedures, staff and supervision

**26.**-(1) A Nominated Adviser shall ensure that it maintains procedures which are sufficient for it to discharge its ongoing obligations under these Regulations.

(2) A Nominated Adviser shall ensure that its compliance and its operations or and procedures manual reflects and takes account of the requirements of these regulations, as appropriate.

(3) In particular, a Nominated Adviser shall ensure that any members of staff who is not approved as Nominated Adviser's Representatives are properly supervised by a Nominated Adviser's Representative at all times in relation to matters relating to EGM companies.

Adequacy of Staff

**27.**- (1) A Nominated Adviser shall ensure that it has sufficient management staff and other corporate finance



staff to discharge its obligations as a Nominated Adviser under these regulations at all times.

(2) In assessing whether it has sufficient staff, a Nominated Adviser shall have regard to the number and type of EGM companies for which it acts.

Maintenance  
of  
appropriate  
records  
and  
reporting  
requirements

**28.-** (1) A Nominated Adviser shall keep and maintain sufficient records so as to maintain an audit trail of the key discussions it holds with, advice which it has given to, and the key decisions it has made in respect of the EGM companies for which it acts as a Nominated Adviser.

(2) A Nominated Adviser shall ensure that it is able, to demonstrate the basis for advice given and key decisions taken by keeping appropriate records such as internal considerations and any actions taken prior to the advice being given and such records shall be retained for at least five years after a Nominated Adviser ceases to be licensed.

(3) When performing a review of a Nominated Adviser, the Authority shall look for evidence that matters set out in the Fourth and Fifth Schedules to these Regulations have been complied with and that appropriate actions have been taken by the Nominated Adviser to ensure compliance with these Regulations and the DSE Rules.

(4) A Nominated Adviser shall submit to the Authority-

(a) quarterly reports of its business undertakings and of its own financial performance, within thirty days of the end of each calendar quarter;

(b) half yearly reports of the business and of its own financial performance, within sixty days of the end of each half year;

(c) annual reports of the business under its management including the number of clients; and

(d) audited annual accounts for its operations

within three months following the closure of the financial year.

- (e) a report of public offer of securities for which the Nominated Adviser has facilitated within one month after the closure of the public offer.

(5) A Nominated Adviser shall keep for a period of seven years the following records-

- a) journals, including cash receipts and disbursement records and any other records of original entry, forming the basis of entries in any ledger;
- b) general and auxiliary ledgers, or other comparable records reflecting assets, liabilities, reserves, capital, income and expense accounts;
- c) originals of all written communication received from clients and copies of all written communication sent by the Nominated Adviser relating to-
  - (i) any recommendations made or proposed to be given;
  - (ii) any receipts, disbursement or delivery of funds or securities.

(6) The records specified under paragraph (a) of sub regulation 5 shall be subject to inspection from time to time and without notice, by the Authority.

(7) The records required to be maintained under this Regulation shall be preserved for a period of seven years and shall be subject to inspection by the Authority.

## **PART VI**

### **INSPECTION AND DISCIPLINE OF A NOMINATED ADVISER**

Inspection of  
Nominated  
Advisers

**29.**-(1) A Nominated Adviser shall be subject to inspection by the Authority from time to time without notice to ensure that it has fully discharged its responsibilities under these regulations and the DSE Rules for EGM Companies.

(2) A Nominated Adviser shall ensure that a Nominated Adviser's Representative co-operates fully with the Authority and that the Representative who was responsible for a transaction is available to answer any questions by the Authority about any relevant matter.

(3) A Nominated Adviser shall allow the Authority's officers access to its records, hard and electronic copies and business premises when so requested by the Authority.

Suspension,  
Revocation and  
Appeal

**30.**-(1) The Authority may suspend or revoke the license of a Nominated Adviser's Representative if he is subject to bankruptcy, disciplinary action by another regulator, mentally incapacitated or has been shown by a formal review to have failed to act with due skill and care or in accordance with these Regulations or the DSE Rules for EGM companies.

(2) A Nominated Adviser or the Nominated Adviser's Representative may appeal in accordance with section 48 of the Act against a decision of the Authority to suspend or revoke the Representative license.

Disciplinary  
action  
against a  
Nominated  
Adviser

**31.** (1) Where the Authority considers that a Nominated Adviser is either in breach of its responsibilities or that the integrity and reputation of EGM has been or may be impaired as a result of Nominated Adviser's conduct or judgment, the Authority may take one or more of the following actions:

(a) issue a warning notice;

(b) levy a fine;

(c) issue a censure; or

(d) suspend the license of the Nominated Adviser;

(e) revoke the license of the Nominated Adviser and remove the name from the register; or

(f) publish the action the Authority has taken and the reasons for that action.

Moratorium  
on acting  
for further  
EGM  
companies

**32.-** (1) Where, in the opinion of the Authority, a Nominated Adviser-

(a) no longer meets the requirements of Part I of these Regulations; or

(b) does not meet its responsibilities under these Regulations;  
or

(c) has insufficient staff contrary to Regulation 26 of these Regulations; or

(d) is the subject of disciplinary action by the Authority,

the Authority may prevent that Nominated Adviser from so acting to any other EGM companies until the Nominated Adviser's compliance status is resolved to the Authority's satisfaction.

(2) The Authority may make the imposition of any moratorium public by way of public notice and marking the register accordingly.

(3) A Nominated Adviser pursuant to section 48 of the Act appeals against any decision of the Authority in relation to these Regulations.

Publication  
of the  
suspension or  
revocation of  
license of a  
Nominated  
Adviser

**33. -** (1) Where the Authority suspends or revokes the license of a Nominated Adviser due to disciplinary action or due to the Nominated Adviser's failure to continue to meet the eligibility criteria set out in Part I of these Regulations or where a Nominated Adviser requests to have its license revoked, the Authority shall notify the public of such revocation by way of a notice published on the Exchange

and shall mark the register accordingly.

Form of licenses

**34.** The licenses granted by the Authority under these Regulations shall be in the form prescribed in the Sixth Schedule to these Regulations.

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## FIRST SCHEDULE

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### FORMS

#### HOW TO COMPLETE APPLICATION FORM –

This application form should be completed by applicants seeking to become a Nominated Advisers.

It is essential to read this application form in conjunction with the Capital Markets and Securities (Nominated Advisers) Regulations 2008 and the DSE Rules for EGM Companies.

In accordance with Regulation 6 of the Capital Markets Securities (Nominated Adviser) Regulation, 2008, applicants must submit a completed Form **NA1** together with appropriate supporting documents. In addition to information that is specifically requested on this Form the applicant should submit:

- (i) in the case of a company, the company statutes (e.g. Memorandum and Articles of Association) and the Certificate of Incorporation;
- (ii) a diagram outlining the structure of the Company;
- (iii) the applicant's audited accounts;
- (iv) Form **NA2** for each of the applicant; Nominated Adviser's Representative (with any supporting documents);
- (v) the company's corporate finance compliance manual (please note that the applicant is required to update its compliance manual to reflect the requirements of the Capital Markets and Securities (Nominated Adviser's) Regulations, 2008 before submitting an application).

When completing section 4 of this form, please provide brief details of any adverse or potentially adverse matters in respect of the applicant which have been brought to the attention of any of the relevant regulatory bodies listed in that section during the last 6 years. The time that the Authority will need to review the application will be shortened where copies of any relevant correspondence between the regulator and the applicant is provided.

When completing section 8 of this form with details of the applicant's profile, please provide documentary evidence to support the applicant's assertions. The Authority will expect the applicant to include, as a minimum:

- (i) details of the applicant's principal activities (and of any exceptional factors which have affected these activities);
- (ii) a statement of the applicant's market position in these activities (where the applicant is active in an overseas market, please state the percentage of domestic offerings on each local market on which the applicant has provided corporate finance advice).
- (iii) details of its current trading and prospects;
- (iv) the business reasons for seeking approval as a nominated adviser;
- (v) the extent of the applicant's business relationships with any existing nominated advisers or AIM brokers;
- (vi) details of any legal or arbitration proceedings active, threatened or pending against the applicant or any member of its group which may have a significant effect on the reputation of the applicant.

Answers must be printed in block letters or typed and all signatures must be original.

The Authority will keep confidential all information provided to it by the applicant in relation to its application, except to the extent that disclosure of any or all of the information is necessary for the exercise of its regulatory functions, or is otherwise required by law.

## NOMINATED ADVISER'S APPLICATION FORM – NA1

**1. Name of applicant:**

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**Trading name** (if different):

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**Address of principal place of business and registered office** (please add an additional sheet if necessary to provide addresses of all offices providing corporate finance advice)

Address:		
Tel:	Fax:	Post Office address:

**2. Nature of entity e.g. limited company or partnership** (please include with the application copies of the company statutes or partnership deed as appropriate):

If a body corporate, state the applicant's country of incorporation:

3. Name and position of contact at the applicant:

Name, qualifications and any relevant experience of the applicant's Compliance Officer:

4. Please indicate all current (and any former) regulating organization(s) or recognized professional bodies, by which the applicant is regulated or of which it is (or has been) a member in all of the jurisdictions in which the applicant provides corporate finance advice.

(Please provide documentary evidence that the applicant is regulated by such body together with the telephone number of the applicant's principal contact at each relevant body).

If appropriate, state the applicant's lead regulator:

5. Has the applicant been operating in a principal corporate finance advisory role for at least two years?

Yes/No

6. Describe each of the applicant's "relevant transactions" (as defined in the CMS Regulations), in which the applicant has acted in a lead corporate finance advisory role within the last two years\*. Please provide a copy of the public document for each relevant transaction evidencing the role which the applicant has played in each case:

Transaction:	Role performed (indicating on which "regulated market" or other "major stock exchange of the world" each transaction took place):	Date of Transaction:

7. Please provide any details which the applicant wishes the Authority to take into account in assessing the commercial and regulatory performance to date of each of the applicant's client companies since the date of relevant transaction.\*

Name of applicant's client	Client's share price at the time of the relevant transaction and at the date of the application:	Any regulatory issues affecting the client company (Yes/No). If yes please provide details on a separate sheet **.

\*Continue on a separate sheet where necessary.

\*\*The Authority may ask the applicant further questions about these clients.

**8. Please provide a full statement of the applicant's profile.**

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\*Continue on a separate sheet where necessary.

**9. Name at least four suitably qualified staff and experienced Nominated Adviser's Representative**

Title	First name	Surname

**10. State the number of staff who will be involved in an executive capacity in Nominated Adviser activities:**

**11. Please summarize what procedures and controls are in place to ensure that personnel do not act beyond their proper authority?** (Please provide page references to the applicant's compliance manual)


**12. Is there any other information which you think may be relevant to the Authority in considering this application?**

Yes/No
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If the answer is yes, please give details on a separate sheet.

**13. Nominated Adviser's undertaking** (to be signed by applicant)



**Name of Nominated Adviser applicant**

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The above applicant hereby applies for a licence as a Nominated Adviser for the purposes of the Capita Markets and Securities (Nominated Advisers) Regulations 2008 and DSE Rules for EGM companies and if the Authority grants this licence the Nominated Adviser undertakes to comply with and discharge its responsibilities and obligations as a Nominated Adviser under the law with due skill and care, and acknowledges that the Authority may take disciplinary or other action against it as Nominated Adviser in accordance with the law.

The above applicant declares that all the information contained in this application form and otherwise supplied is complete, true, accurate and not misleading and that it has read the law relating to Nominated Advisers and believes that this application conforms to them (except as specifically notified to you in this application).

**This undertaking must be signed by two directors, partners or duly authorised officers of the applicant nominated adviser.**

Signature of a partner, director or duly authorized officer, for and on behalf of the applicant:		
Name of signatories in block capitals:		
Date:		

**NOMINATED ADVISERS REPRESENTATIVE APPLICATION FORM- NA2**

This Form is to be completed when:

- the NA1 Form is submitted by a Nominated Adviser applicant. The applicant shall submit a NA2 Form for each of its Nominated Adviser's Representative as defined in the Capital Markets and Securities (Nominated Advisers) Regulations 2008; and
- an executive staff member is to be registered by a Nominated Adviser's Representative.

All information provided in respect of any of the above individuals will be kept confidential by the Authority, except to the extent that disclosure of any or all of the information is necessary for the Authority to carry out its regulatory functions, or is otherwise required by law.

**1. Name of Nominated Adviser (or nominated adviser applicant):**

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**2. Executive staff member's full name:**

Title: First name(s):.....	
Surname: .....	Date of birth:.....

**3. Physical address:**

Postcode:

**4. Qualifications:**

**Provide details of any professional or business qualifications and/or memberships of any professional bodies, exchanges or trade associations obtained or applied for\*.**


**5. Regulatory:**

Yes                  No

Have you been registered as a corporate finance or financial services practitioner by any regulating organization(s) or recognized professional bodies. Please provide written evidence of such registration(s) or alternatively a brief explanation why no such registration is available or applicable in the relevant jurisdiction\*. (Please state whether you have passed, been grandfathered into, exempted or received a waiver from the General/Securities Examination.)

\*Continue answers on a separate sheet where necessary

## Employment History

Provide details of your employment history (last 10 years, most recent first)\*:

<b>Dates from/to:</b>	<b>Name and address of organization:</b>	<b>Position held and description of responsibilities:</b>

## 7. Transaction History

Describe completed corporate finance advisory transactions undertaken including full details of the role undertaken in relation to each transaction. Copies of public documents evidencing the relevant transactions should be included with the application. If this includes equivalent experience gained while working for a previous employer, this fact must be indicated and a letter from the employer will be required confirming that you provided lead corporate finance advice on the relevant transactions. \*

<b>Description of Transaction:</b>	<b>Details of work undertaken by applicant:</b>	<b>Date of Transaction:</b>

## 8. Declaration of executive applicant

I declare that I have not been subject to any disciplinary action by any regulator or law enforcement agency in the context of financial services or corporate finance and save as set out in this application, I have not been disqualified by a court from acting as a director of any company or from acting in the management or conduct of its affairs and have no unspent convictions in relation to indictable offences. I declare that the information supplied is complete, true, accurate and not misleading.

Signature: .....	Date:
Name of signatory in block capitals:	

**Declaration of the Nominated Adviser:**

I declare that the applicant is employed on a full time basis by the Nominated Adviser (or nominated adviser applicant) named overleaf and that (in relation to the transactions cited in Section 7 above which were carried out while employed by this Nominated Adviser (or nominated adviser applicant)) the applicant provided the lead corporate finance advice

Signature:	Date:
Name of signatory authorised for and on behalf of the executive's employer:	

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**SECOND SCHEDULE**

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*(Under Regulation 13(1))*

**NOMINATED ADVISER'S DECLARATION**

This Nominated Adviser confirms that:

**SECTION A:**

To the best of its knowledge and belief having made due and careful enquiry and considered all relevant matters under the Capital Markets and Securities (Nominated Advisers') Regulations, 2008 and the DES Rules for EGM Companies and in relation to this application for admission, all applicable requirements have been complied with and, in particular-

- (a) the listing document complies with Rules ..... of the DSE Rules for EGM Companies;
- (b) the requirements of First Schedule to the Capital Markets and Securities (Nominated Advisers) Regulations, 2008 have been complied with; and

**SECTION B:**

- (a) it is satisfied that the applicant and its securities are appropriate to be listed on the EGM having made due and careful enquiry and considered all relevant matters set out in the DSE Rules for EGM Companies and the CMS Nominated Advisers) Regulations 2008 and;
- (b) the directors of the applicant have received advice and guidance (from this Nominated Adviser and other appropriate professional advisers) as to the applicant's responsibilities and obligations under the law in order to facilitate due compliance by the applicant on an ongoing basis; and
- (c) it will comply with the law as applicable to it in its role as a Nominated Adviser to this applicant.

**NOTE:**

*Sections A and B must be completed where securities are being listed on the EGM.*

*Only Section B must be completed where this form is being completed pursuant to a change of Nominated Adviser and Section A will not be applicable. In such cases, the term applicant should be deemed to read EGM Company.*

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**THIRD SCHEDULE**

\_\_\_\_\_

*Under Regulation 6(3)*

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**NOMINATED ADVISER'S FEES**

Application fee (not refundable).....	1,000,000.00
Annual licence Fee.....	2,000,000.00
Admission fee.....	2,000,000.00
Licence Replacement fee.....	1,000,000.00

**NOMINATED ADVISER’S REPRESENTATIVE FEES**

Application fee (not refundable).....	500,000.00
Annual licence Fee.....	1,000,000.00
Admission fee.....	1,000,000.00
Licence Replacement fee.....	500,000.00

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**FOURTH SCHEDULE**

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*Under Regulation 13(1))*

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**NOMINATED ADVISER RESPONSIBILITIES**

The responsibilities set out in this Schedule consist of numbered principles which appear in bold and are followed by a list of actions. The numbered principles must be fulfilled in all cases. The actions which follow each principle represent a non-exhaustive list of tasks that the Authority would expect a Nominated Adviser to fulfill. Other actions can therefore be substituted in order to satisfy each overriding principle or the Nominated Adviser may decide that a particular action set out below is not appropriate. The reasons for such decisions should be recorded as part of the record keeping duties under Regulation 28 in order to evidence to the Authority that a Nominated Adviser has acted with due skill and care.

**Listing Responsibilities**

These apply to a Nominated Adviser that is acting for a company that is being prepared for listing on the EGM applicant including in relation to the company’s acting on a reverse takeover and a listed applicant in respect of its listing on the EGM.

## THE APPLICANT AND ITS SECURITIES

**P1. In assessing the appropriateness of an applicant and its securities for EGM, a Nominated Adviser shall achieve a sound understanding of the applicant and its business.**

To achieve this, the Nominated Adviser shall-

- (a) ensure it has, or has access to, appropriate knowledge of the applicant's area of business (taking into account its country of incorporation and operation), using in-house specialists or external experts where necessary to achieve this;
- (b) assist in preparing or consider the applicant's sector, proposition, feasibility report, business plan or similar, historical financial information and other corporate information, including the due diligence performed further to **P3**;
- (c) consider any issues relating to the applicant's country of incorporation and operation and any other issues that might affect its appropriateness;
- (d) undertake a visit to the applicant's material site(s) of operation and meet the directors and key managers. The necessity of meeting any other relevant material shareholders shall also be considered;
- (e) satisfied that the issuer or company intending to list has or will have the necessary operational infrastructure;
- (f) consider appointing its own legal advisers who are independent from the issuer or company intending to list to assist in the Nominated Adviser's understanding of the applicant and to provide advice to the Nominated Adviser that is independent of the applicant;
- (g) determine the price at which the shares of the applicant company will be offered to the public.

The feasibility report and the Business Plan referred to in paragraph (b) shall contain such the following particulars:

### **Contents of Feasibility report**

- (i) Summary of the report
- (ii) Detailed technical, distribution and financial description of the intended project, service or product including expected-
  - Production technology ;
  - Distribution channel;
  - Marketing strategy;
  - Distribution area coverage
- (iii) Financial projection including the possibility of dividend distribution or capital gain;
- (iv) Nominated Adviser's comments/ opinion on the technical and financial feasibility of project;
- (v) Conclusion and recommendations.

### **Contents of the Business Plan**

Executive summary;  
Introduction (Vision and Mission);  
Products and services;  
Implementation strategies;  
Action Plan;  
Financial Projections for five years.

### **KEY MANAGEMENT STAFF AND BOARD**

#### **P.2 In assessing the appropriateness of an applicant and its securities for EGM, a Nominated Adviser shall-**

- (a) investigate and consider the suitability of the key management staff, each director and proposed director of the applicant; and
- (b) consider the efficacy of the management and the board as a whole for the company's needs,

in each case having in mind that the company will be admitted to trading on a Stock Exchange in Tanzania.

To achieve the above, the Nominated Adviser shall-

- (a) issue and review key management staff and directors' questionnaires and review their respective CVs;



- (b) test the information revealed by the above questionnaires and CVs, for example by conducting searches, company checks, confirming references and, where appropriate, obtaining third party checks. For directors and management staff who are not Tanzanian-based, appropriate investigations shall be undertaken;
- (c) extend these investigations and considerations as appropriate to consultants or advisers who are included in the listing document;
- (d) consider undertaking such investigations in relation to substantial shareholders as appropriate, especially where there is uncertainty as to their identity or where they are not established institutions, in particular to enquire about the existence of persons exerting control over the applicant;
- (e) analyze any issues arising from these investigations, in particular how such issues could affect the company's appropriateness to offer securities to the public and be listed on the EGM;
- (f) consider their suitability and experience in relation to their respective roles in the company;
- (g) consider the management and Board of Directors as a whole in relation to the company's needs, for example given its type, size, expected profile and the fact that the applicant will offer securities to the public and be listed on an Exchange in Tanzania.
- (h) consider, with the directors of the issuer or company intending to list the adoption of appropriate corporate governance measures.

## **DUE DILIGENCE**

**P3 The Nominated Adviser shall oversee the due diligence process, satisfying itself that it is appropriate to the company and transaction and that any material issues arising from it are dealt with or otherwise do not affect the appropriateness of the applicant for EGM.**

In achieving this, the Nominated Adviser shall-

- (a) be satisfied that appropriate financial and legal due diligence is undertaken by an appropriate professional firm(s);
- (b) be satisfied that appropriate working capital and financial reporting systems and controls reviews are undertaken (usually including reports or letters from accountants to the applicant);
- (c) consider whether commercial, specialist (e.g. intellectual property) and/or technical due diligence is required and be satisfied that it is undertaken where required;
- (d) agree to the scope of all such due diligence and reports (including, in relation to the working capital report, assumptions and sensitivities);
- (e) review and assess the above due diligence, reports and advisers comfort letters, consider any material issues, recommended actions or adverse analysis raised and be satisfied that appropriate actions have been undertaken to resolve such matters or otherwise be satisfied that such matters do not affect the appropriateness of the company for EGM.

## **LISTING DOCUMENT**

**P4 The Nominated Adviser shall oversee and be actively involved in the preparation of the Listing document, satisfying itself (in order to be able to give the Nominated Adviser's declaration) that it has been prepared in compliance with the law with due verification having been undertaken.**

In achieving this, the Nominated Adviser shall-

- (a) oversee and be actively involved in the drafting of the sections of the listing document that relate to the business of the applicant (usually the Key Information sections) and the risk factors, being satisfied that they take into account matters raised by due diligence;
- (b) be satisfied that the financial and additional information sections have been appropriately prepared ;

- (c) consider whether any specialist third party reports are required (e.g. for companies in particular sectors such as property or biotechnology or environmental Assessment report);
- (d) be satisfied that appropriate verification of the listing document and any related notifications has taken place;
- (e) be satisfied (in the terms of the nominated adviser's declaration) that the listing document (or any appendix prepared by a listed applicant complies with the DSE Rules for EGM Companies, liaising with the Authority and DSE to the extent that rule derogations or interpretations may be required;

## **COMPLIANCE WITH THE CAPITAL MARKETS AND SECURITIES (NOMINATED ADVISERS) REGULATIONS**

**P5 The nominated adviser shall satisfy itself that the company has in place sufficient systems, procedures and controls in order to comply with the CMS (Nominated Advisers) Regulations, 2008 and shall satisfy itself that the company understands its obligations under the law.**

In achieving this, the Nominated Adviser shall-

- (a) be satisfied that procedures within the company have been established to facilitate compliance with the law, e.g. release of unpublished price sensitive information, notifications, regulation of close periods;
- (b) be satisfied that the directors have been advised of their and the company's continuing responsibilities and obligations under the law and that the directors are aware of when they should be consulting with or seeking the advice of the Nominated Adviser. The Nominated Adviser shall be involved in the provision of this advice to the directors so that they are aware of the practical consequences of the requirements of the law.

### **Ongoing Responsibilities**

These apply on a continuing basis in respect of any Nominated Adviser who acts for an EGM company.

## **REGULAR CONTACT BETWEEN COMPANY AND NOMINATED ADVISER**

**P6 The Nominated Adviser shall maintain regular contact with the EGM company for which it acts, in particular so that it can assess whether-**

- (a) the nominated adviser is being kept up-to-date with developments at the EGM company;
- (b) the EGM company continues to understand its obligations under the law.

To achieve this, the Nominated Adviser shall-

- (i) maintain regular contact with the EGM company, in particular to be satisfied that the Nominated Adviser is kept up-to-date in order that it can advise the company on its obligations under the EGM Rules for Companies;
- (ii) assess whether the EGM company continues to understand its obligations under the law, for example by having discussions with the directors where appropriate and be satisfied that any procedures required pursuant to P5 continue to be effective;
- (iii) attend the Board meetings of the EGM company.

## **REVIEW OF NOTIFICATIONS**

**P7 The Nominated Adviser shall undertake a prior review of relevant notifications made by an EGM company with a view to ensuring compliance with the law**

In achieving this, the Nominated Adviser shall-

- (a) review in advance all notifications to be made by an EGM company for which it acts to ensure as far as reasonably possible that they comply with the law. Where the Nominated Adviser reasonably believes a company's directors have appropriate knowledge and experience of the law relating to EGM Companies, review of routine announcements may not be necessary;

- (b) include the Nominated Adviser's name and a contact name on all such announcements that a Nominated Adviser reviews, other than routine announcements;

## **MONITOR TRADING**

**P8 The Nominated Adviser shall monitor (or have in place procedures with third parties for monitoring) the trading activity in securities of an EGM company for which it acts, especially when there is unpublished price sensitive information in relation to the EGM company.**

In achieving this, the Nominated Adviser shall-

- (a) use suitable alerts or other triggers to alert the Nominated Adviser to substantial price or trading movements. This can be satisfied via the broker;
- (b) contact an EGM company where appropriate if there is a substantial movement to ascertain whether an announcement or other action is required, liaising with the Authority and the Exchange where appropriate;
- (c) consider the necessity for arranging relevant press monitoring, particularly when there is material unpublished price sensitive information in existence;

## **ADVISE THE EGM COMPANY ON ANY CHANGES TO THE BOARD OF DIRECTORS**

**P9 The Nominated Adviser shall advise the EGM company on any changes to the board of directors the EGM company proposes to make, including-**

- (a) investigating and considering the suitability of proposed new directors; and**
- (b) considering the effect any changes have on the efficacy of the board as a whole for the company's needs.**

**In each case having in mind that the company is admitted to trading on a Tanzanian stock market.**

In achieving this, the Authority shall expect the Nominated Adviser to –

- (a) be satisfied that the EGM company knows to liaise with the nominated adviser at the earliest opportunity about proposed changes to the board, in order to allow the nominated adviser appropriate time to comply with the law;
- (b) in relation to new directors, consider the requirements of P.2 and take the appropriate actions including issuing and reviewing director's questionnaires, reviewing the director's CV and testing such information;
- (c) consider whether such proposed directors are suitable to be a director of a Tanzanian public company and consider the effect of the appointment on the efficacy of the board as a whole for the company's needs;
- (d) in relation to the removal of directors, consider how this affects the efficacy of the board as a whole for the company's needs, make any recommendations it thinks fit to the EGM company and considering whether this in turn affects the EGM company's appropriateness for EGM.

### **Engagement Responsibilities**

These apply when a Nominated Adviser is being engaged as a Nominated Adviser to an existing EGM company.

In satisfying these responsibilities, the actions to be taken will depend on, for example, the circumstances surrounding the change of the Nominated Adviser or the changes that have taken place in the company since listing. For example, it is unlikely that the due diligence reports usually obtained in preparation for listing would be required on engagement. The Authority reserve the right to give direction as to the applicability of the principles in relation to the engagement responsibility.

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## **FIFTH SCHEDULE**

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### **INDEPENDENCE IN RELATION TO RULE 25(4) AND 29(3)**

For the avoidance of doubt-

- (a) A Nominated Adviser shall not act as both reporting accountant and/or auditor on the one hand and Nominated Adviser to an EGM company on the other unless it has satisfied the Authority that appropriate safeguards are in place;
- (b) No partner, director, employee of a Nominated Adviser or associate of any such partner, director or employee may hold the position of a director of an EGM company for which the firm acts as Nominated Adviser;
- (c) No Nominated Adviser or partner, director, employee of a Nominated Adviser or associate of any such partner, director or employee either individually or collectively may be a substantial shareholder (i.e. 30% or more, taking into account options, warrants or similar that it may hold as if they have been exercised) of an EGM company for which the firm acts as Nominated Adviser;
- (d) A Nominated Adviser or partner, director, employee of a Nominated Adviser or associate of any such partner, director or employee may be a significant shareholder (i.e. less than 30% taking into account options, warrants or similar rights that it may hold as if they have been exercised) of an EGM company for which the firm acts as Nominated Adviser provided adequate safeguards are in place to prevent any conflict of interest;
- (e) A Nominated Adviser or partner, director, employee of a Nominated Adviser or associate of any such partner, director or employee shall not deal in the securities of an EGM company or any related financial product for which the firm acts as a Nominated Adviser during any close period of that company;
- (f) If a Nominated Adviser breaches any of the above limits as a result of its underwriting activities it must make best endeavours to sell down its holding to within the guidelines as soon as reasonably practicable.

#### **NOTE:**

As guidance, paragraphs (c) – (e) above shall only apply to the corporate finance function of a Nominated Adviser firm and not to other areas adequately separated by adequate safeguards. In such situations the burden of proof required of the Nominated Adviser under Regulation 19(2) remains.

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**SIXTH SCHEDULE**

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*(Under Regulation 34)*

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THE CAPITAL MARKETS AND SECURITIES ACT  
(CAP. 79)

**LICENSE**

THIS LICENSE is granted to .....  
(name)

of .....  
(address)

and authorizes the said person to conduct or carry on the business of  
.....  
.....  
(type of business)

in the United Republic of Tanzania for a period of one year beginning on the ..... and ending on the ..... (both dates inclusive).

THIS LICENCE is issued subject to maintenance of the requirements of the provisions of the Capital Markets and Securities Act and the Capital Markets and Securities (Nominated Advisers) Regulations, 2008 and such conditions as may be stipulated by the Authority.

Dated the ..... 200.....

License No:.....



.....  
Chairman  
Capital Markets and Securities Authority

.....  
Chief Executive Officer  
Capital Markets and Securities  
Authority

*Mustafa H. Mkullo*  
**Minister for Finance and Economic Affairs**

Dar es Salaam  
.....November, 2008