

**ACTS  
SUPPLEMENT No. 6**

**8th July, 2011.**

**ACTS SUPPLEMENT**  
*to The Uganda Gazette No. 45 Volume CIV dated 8th July, 2011.*  
Printed by UPPC, Entebbe, by Order of the Government.

*Capital Markets Authority Act 12  
(Amendment) Act*

2011

**THE CAPITAL MARKETS AUTHORITY (AMENDMENT) ACT, 2011**

**ARRANGEMENT OF SECTIONS**

*Section*

1. Amendment of Capital Markets Authority Act, Cap. 84.
2. Amendment of section 6 of principal Act.
3. Insertion of new Part XA in principal Act.
4. Insertion of new section 99A in principal Act.
5. Amendment of principal Act to convert shillings into currency points.
6. Modification of references to shillings in statutory instruments under principal Act.
7. Section 103 of principal Act replaced.
8. Consequential amendment of Cap. 110.
9. Insertion of new Schedule 1 in principal Act.
10. Renumbering of existing Schedule to principal Act as Schedule 2.

THE CAPITAL MARKETS AUTHORITY (AMENDMENT)  
ACT, 2011

An Act to amend the Capital Markets Authority Act to provide for the conversion of amounts in shillings into currency points; to provide for the offering of securities to the public; to empower the Authority to collect fines; for connected purposes.

DATE OF ASSENT: 24th June, 2011.

*Date of Commencement:* 8th July, 2011.

BE IT ENACTED by Parliament as follows:

1. Amendment of Capital Markets Authority Act, Cap. 84.

The Capital Markets Authority Act, in this Act referred to as the principal Act is amended in section 1—

- (a) by inserting immediately after paragraph (m) the following—

“(ma) “currency point” has the value assigned to it in Schedule 1 to this Act”; and
- (b) in paragraph (ee) by substituting for “Schedule” the word “Schedule 2”.

*Capital Markets Authority*  
*(Amendment) Act*

**Act 12**

**2011**

2. Amendment to section 6 of the principal Act

The principal Act is amended in section 6(1) by substituting for “each month”, the words “every three months”.

3. Insertion of new Part XA in Cap. 84

The principal Act is amended by inserting immediately after Part X the following—

**“PART XA—OFFERING OF SECURITIES TO THE PUBLIC**

**90A. 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 90K or the Listing Rules or with a report of the notification statement or report;

“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);

“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 cotrustee on a board of directors or trustees, or an employee or employer in an executive capacity;

“closely held” with reference to a public company means a company the securities of which are held by persons referred to in section 90E (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 an offer of securities to the public in respect of a security that is listed on an approved stock exchange of a country specified by the Authority in regulations made under this Act and 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.

90B. 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.

90C. 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 2003.

90D. 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 of the Act.

(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; or



- (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.

90E 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;

**Act 12** *Capital Markets Authority* **2011**  
(Amendment) Act

- (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 him or her 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.

90F. 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.

**90G. Prohibition on offering securities without a 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—

**Act 12** *Capital Markets Authority* **2011**  
(Amendment) Act

- (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 90M (l) (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
- (e) 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)(c) 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 every copy, 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.

90H. Actions to which section 90G does not apply A person does not contravene section 90G 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.

90I. 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.

**90J. 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 90G;
- (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 900, 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.

90K. Securities advertisements taken to be prospectus

(1) Where a prospectus is required for an offer of securities, a person shall not—

- (a) advertise the offer to intended offerees; or
- (b) publish a statement that directly or indirectly refers to the offer 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) A 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 imprisonment 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.

**90L. 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.

**90M. 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;

	<i>Capital Markets Authority</i>	
<b>Act 12</b>	<i>(Amendment) Act</i>	<b>2011</b>

- (d) state, the matters specified in section 90G 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.

(2) 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 90L 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 90L 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 90M(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 him or her 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 he or she 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.

90N. 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.

90O. 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 oversubscriptions to the limit specified in the prospectus were accepted or retained.

90P. 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 90G and 90M shall apply to a supplementary prospectus.

**90Q. Power to suspend or cancel a 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

**Act 12** *Capital Markets Authority* **2011**  
(Amendment) Act

- (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 its or his or her officers or employees, 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 his or her part.

90R. 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 he or she proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(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.

(10) 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 he or she 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.

90S. 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.

90T. 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—

**Act 12** *Capital Markets Authority* **2011**  
*(Amendment) Act*

- (a) in a case where the consent of an expert is required to the issue of a prospectus, he or she has given that consent, except in respect of an untrue statement in the prospectus purporting to be made by him 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 90M(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 90M(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 90M(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 90M (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 90M(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.

**90U. Offences in respect of untrue statements in prospectus**

(1) Where a prospectus contains a statement which is untrue, every person referred to in section 90T(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 imprisonment 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 imprisonment 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.

90V. 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.

**90W. 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 90L 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 imprisonment not exceeding one year or both.

**90X. 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 debt bona fide due to him or her 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 2004, 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, moneys 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 imprisonment 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.

90Y. 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 90L unless the subscription or offer has been made on an application form which has been attached to or accompanied by a prospectus as required by section 90F or unless it is shown that the applicant, at the time of his or her 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 imprisonment for a term not exceeding three years or both.

90Z. Voidable allotment where section 90W, 90X or 90Y 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 90W, 90X or 90Y 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.

90AA. Waiting period

(1) This section applies to equity and debt prospectuses.

(2) In this section, “waiting period” means, subject to subsection (2), 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.



**90AB. Restriction or alteration of terms mentioned in the 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.

**90AC. Prohibition of issue of prospectus in respect of private companies**

(1) A person shall not issue a prospectus relating to a private company.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding five hundred currency points or imprisonment not exceeding five years or both.

**90AD. 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

**Act 12** *Capital Markets Authority* **2011**  
(Amendment) Act

- (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 imprisonment 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 but not limited to a formula, pattern, compilation, program, method, technique, or process, or information contained or embodied in a product, device or mechanism which—

**Act 12** *Capital Markets Authority* **2011**  
(Amendment) Act

- (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.

90AE. Regulations in relation to Part XA

Without prejudice to the general effect of section 101, 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 or obligations placed on issuers with respect to providing continuous disclosure under section 90AA;
- (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 noncomplying offers.

4. Insertion of section 99A of principal Act

The principal Act is amended by inserting immediately after section 99 the following—

“99A. 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”.

5. Amendment of principal Act to convert shillings into currency points  
The principal Act is amended as follows—

- (a) in section 13 by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;
- (b) in section 16(2) by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;
- (c) in section 18(6) by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;
- (d) in section 18(7) by substituting for “six million shillings” the words “three hundred currency points” and for “three years” the words “thirteen years”;
- (e) in section 20(5) by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;
- (f) in section 28(2) by substituting for “one million shillings” the words “fifty currency points” and substituting for “fifty thousand shillings” the words “two and half currency points”;

	<i>Capital Markets Authority</i>	
<b>Act 12</b>	<i>(Amendment) Act</i>	<b>2011</b>

- (g) in section 29(6) by substituting for “one million shillings” the words “fifty currency points” and substituting for “one hundred thousand shillings” the words “five currency points”;
- (h) in section 37 by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;
- (i) in section 50(5) by substituting for “two hundred thousand shillings” the words “ten currency points” and substituting for “twenty thousand shillings” the words “one currency point”;
- (j) in section 57(11) by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;
- (k) in section 59(7) by substituting for “two million shillings” the words “one hundred currency points” and for “one year” the words “four years”;
- (l) in section 60(2) by substituting for “two million shillings” the words “one hundred currency points” and for “one year” the words “four years”;
- (m) in section 61(2) by substituting for “two million shillings” the words “one hundred currency points” and for “one year” the words “four years”;
- (n) in section 62(2) by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;
- (o) in section 63(2) by substituting for “two million shillings” the words “one hundred currency points” and for “one year” the words “four years”;
- (p) in section 65(2) by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;

**Act 12** *Capital Markets Authority* **2011**  
(Amendment) Act

- (q) in section 66(5) by substituting for “two million shillings” the words “one hundred currency points” and for “one year” the words “four years”;
- (r) in section 67(7) by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;
- (s) in section 67(8) by substituting for “six million shillings” the words “three hundred currency points” and for “three years” the words “thirteen years”;
- (t) in section 68(1) by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;
- (u) in section 68(2) by substituting for “six million shillings” the words “three hundred currency points” and for “three years” the words “thirteen years”;
- (v) in section 68(8) by substituting for “six million shillings” the words “three hundred currency points” and for “three years” the words “thirteen years”;
- (w) in section 89(1 )(a) by substituting for “ten million shillings” the words “five hundred currency points” and for “five years” the words “twenty one years”;
- (x) in section 89(1 )(b) by substituting for “twelve million shillings” the words “six hundred currency points”;
- (y) in section 92(1) by substituting for “two million shillings” the words “one hundred currency points” and for “one year” the words “four years”;
- (z) in section 93 by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;

- (aa) in section 94 by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;
- (bb) in section 97(7) by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”;
- (cc) in section 99(2) by substituting for “four million shillings” the words “two hundred currency points” and for “two years” the words “eight years”; and
- (dd) in section 101(4) by substituting for “four million shillings” the words “two hundred currency points” and substituting for “twelve months” the words “eight years” and substituting for “one hundred thousand shillings” the words “five currency points”.

6. Modification of references to shillings in statutory instruments under principal Act

Any statutory instrument made under the principal Act and in existence at the commencement of this Act is amended by substituting for all references to shillings in it, references to currency points converted at the rate of 20,000 shillings to a currency point.

7. Section 103 of principal Act replaced

For section 103 of the principal Act there is substituted the following—

“103. Power of Minister to amend Schedules

(1) The Minister may with the consent of the Cabinet by statutory instrument, amend Schedule 1.

(2) The Minister may with the approval of Parliament by statutory instrument, amend Schedule 2.”



*Capital Markets Authority*  
**Act 12** *(Amendment) Act* **2011**

8. Consequential amendment of Cap. 110

The Companies Act, Cap 110 is amended by repealing sections 5(1), 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 50, 51, 52 53, 382, 383, 384, 385 and the Third Schedule.

9. Insertion of new Schedule 1 in principal Act

The principal Act is amended by inserting immediately before the existing Schedule the following new Schedule—

“SCHEDULE 1

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings”.

10. Renumbering of existing Schedule to principal Act as ‘Schedule 2’

The Schedule to the principal Act existing immediately before the commencement of this Act is renumbered as “Schedule 2”.

<b>Act 12</b>	<i>Capital Markets Authority (Amendment) Act</i>	<b>2011</b>
---------------	--	-------------

Cross references

1. The Collective Investment Schemes Act, 2003 Act, No. 4 of 2003
2. The Companies Act, Cap.110
3. The Financial Institutions Act, 2004, Act No. 2 of 2004