

STATUTORY INSTRUMENTS

2003 No. 99.

THE COLLECTIVE INVESTMENT SCHEMES (LICENSING) REGULATIONS, 2003.

ARRANGEMENT OF REGULATIONS.

Regulation

PART I—PRELIMINARY.

1. Citation.
2. Interpretation.
3. Application.

PART II—APPLICATION FOR LICENCE.

4. Application for licence.
5. Documents to accompany application for licence.
6. Eligibility to make application for licence.
7. Statement of financial resources.
8. Additional information to accompany application.
9. Exemptions.
10. Alteration of facts contained in application.
11. Directions in form.
12. Manner of application.
13. Compliance with requirements.

PART III—FEES.

14. Fees.

PART IV—GRANT OF LICENCE.

15. Grant of licence.
16. Refusal to grant licence.
17. Form of licence.
18. General conditions.
19. Notification to Authority.

PART V—RENEWAL OF LICENCE.

20. Application for renewal of licence.
21. Conditions for renewal of licence.

PART VI—NON COMPLIANCE.

22. Obligation to comply with Regulations.

PART VII—MISCELLANEOUS.

23. Misplacement of licence.
24. Display of licence.

First Schedule— Application for Licence for a Collective Investment Scheme.

Second Schedule—Licence.

Third Schedule—Application for Renewal of Licence.

Fourth Schedule—Notice of Change of Principal place of Business.

Fifth Schedule—Notice of Cessation of Business.

STATUTORY INSTRUMENTS

2003 No. 99.

The Collective Investment Schemes (Licensing) Regulations, 2003.

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

IN EXERCISE of the powers conferred upon the Capital Markets Authority by sections 30, 31 and 84 of the Collective Investment Schemes Act, 2003, these Regulations are made this 19th day of November, 2003.

PART I—PRELIMINARY.

1. Citation

These Regulations may be cited as the Collective Investment Schemes (Licensing) Regulations, 2003.

2. Interpretation

In these Regulations, unless the context otherwise requires—

- (a) “Act” means the Collective Investment Schemes Act, 2003;
- (b) any word, term or expression which has been defined in the Act shall have the meaning assigned to it by the Act.

3. Application

These Regulations apply to licensing of a collective investment scheme, a manager of a unit trust scheme, an authorized corporate director (ACD) of an open ended investment company, a trustee and a depository of a collective investment scheme.

PART II—APPLICATION FOR A LICENCE.

4. Application for licence

(1) An application for a licence shall be made to the Authority by the promoter of a collective investment scheme in Form 1 set out in the First Schedule and shall be in triplicate.

5. Documents to accompany application for licence

The application shall be accompanied by the following documents—

- (a) in respect of an investment company with variable capital—
 - (i) the draft instrument of incorporation, which shall comply with the requirements of Part 1 of Schedule 1 to the Act (relating to the instrument of incorporation) and Part 2 of the Collective Investment Schemes (Open Ended Investment Companies) Regulations, 2003;

- (ii) a prospectus, which shall contain the information specified in Part II of Schedule 1 to the Act, (relating to the prospectus) and Part III of the Collective Investment Schemes (Open Ended Investment Companies) Regulations, 2003 (relating to the prospectus);
 - (iii) Memorandum and Articles of Association, which allow for free transfer of shares and redeeming of shares at the option of the company, on such terms and in such a manner as the scheme may provide;
 - (iv) a statement of the particulars of the directors of the company;
 - (v) details as to the corporate name and registered or principal office of the depository of the scheme;
 - (vi) a statement of the proposed company's head office;
 - (vii) a business plan;
 - (viii) bank reference;
 - (ix) two professional or business references;
 - (x) letter of consent to act as a depository;
 - (xi) a statement of any other activities, other than in relation to the scheme, in which the operator or depository is or proposes to be engaged; and
 - (xii) the prescribed fees;
- (b) in respect of a unit trust scheme—
- (i) the Trust Deed, which shall comply with the requirements under Part III of Schedule 1 to the Act (relating to the trust deed) and Part II of the Collective Investment Schemes (Unit Trust) Regulations, 2003;
 - (ii) scheme rules;
 - (iii) the scheme particulars, which shall contain the matters specified in Part IV of Schedule 1 to the Act (relating to the scheme particulars), and Part 3 of the Collective Investments Schemes (Unit Trust) Regulations, 2003;
 - (iv) a statement of the corporate name and registered office of the manager (operator);
 - (v) a statement of the corporate name and registered or principal office of the trustee;
 - (vi) letter of consent to act as a trustee;
 - (vii) letter of consent to act as a manager;

(viii) a statement specifying any other activities, other than in relation to the scheme, in which the manager or trustee is or proposes to be engaged; and

(ix) the prescribed fees;

(c) in respect of a unit trust manager—

(i) the draft Instrument of incorporation;

(ii) Memorandum and Articles of Association;

(iii) a statement of the corporate name, registered office and principal place of business;

(iv) a statement of the particulars of the directors of the company;

(v) the address of a place in Uganda for the service on the applicant of any notice or other document required or authorised to be served on him or her under the Act and these Regulations;

(vi) evidence of minimum net capital of Uganda shillings two hundred million;

(vii) certified audited financial statements and auditor's report for the preceding three years, where applicable;

(viii) a detailed statement of the applicant's assets and liabilities;

(ix) letter of consent to act and details of its auditor; and

(x) the prescribed fees;

(d) in respect of an authorised corporate director—

(i) the draft Instrument of incorporation;

(ii) Memorandum and Articles of Association;

(iii) a statement of the corporate name, registered office and principal place of business;

(iv) a statement of the particulars of the directors of the company;

(v) the address of a place in Uganda for the service on the applicant of any notice or other document required or authorised to be served on him or her under the Act and these Regulations;

(vi) evidence of minimum net capital of Uganda shillings two hundred million;

(vii) certified audited financial statements and auditor's report for the preceding three years where applicable;

(viii) a detailed statement of the applicant's assets and liabilities;

- (ix) letter of consent to act and details of its auditor; and
 - (x) the prescribed fees;
- (e) in respect of a depositary or trustee—
- (i) the relevant Instrument of Incorporation;
 - (ii) Memorandum and Articles of Association;
 - (iii) statement of assets and liabilities;
 - (iv) a statement of the corporate name, registered office and principal place of business;
 - (v) a statement of the particulars of the directors of the company;
 - (vi) audited financial statements and auditors report for the preceding three years;
 - (vii) a certificate of no objection from the relevant regulatory body;
 - (viii) a letter of consent to act and details of its auditor;
 - (ix) the address of a place in Uganda for the service on the applicant of any notice or other document required or authorised to be served on him or her under the Act and these Regulations.

6. Eligibility to make application for licence

(1) An application for a licence under this Part may only be made by a body corporate and, in the case of an application to be licensed as a trustee or depositary, may only be made by a bank as defined in the Financial Institutions Act, or an insurance company as defined in the Insurance Act, or such other financial institution as the Authority may prescribe.

7. Statement of financial resources

Each application for a licence or renewal of a licence shall be accompanied by a detailed statement of the financial resources available to the applicant to undertake the business under the licence.

8. Additional information to accompany application

An applicant shall provide any other information which the Authority may require in the consideration of an application.

9. Exemptions

The Authority may, for justifiable cause, exempt an applicant from any or all the requirements of this Part and prescribe other requirements for that applicant.

10. Alteration of facts contained in application

An applicant for a licence shall, immediately upon the decision to make an alteration on any matter in respect of which information was supplied or required to be supplied by the applicant to the Authority in relation to the applicant's application, being a proposal or event made or occurring since the lodging of the application and prior to a decision on the application by the Authority, give written notice to the Authority of—

(a) any proposed alteration to; or

(b) the occurrence of any event which an applicant knows affects or may affect in a material respect,

any matter in respect of which information was supplied or required to be supplied by the applicant to the Authority in relation to their application, being a proposal or event made or occurring since the lodging of the application and prior to a decision on the application by the Authority.

11. Directions in form

A form prescribed by these Regulations shall be in accordance with the directions specified in the form.

12. Manner of application

An application for a licence or renewal of a licence in the form prescribed, together with any relevant annexure, shall be enclosed in a sealed envelope and lodged with the Authority.

13. Compliance with requirements

An applicant for a licence shall comply with such other requirements as may be determined by the Authority.

PART III—FEES.

14. Fees

(1) An applicant for a licence shall pay the appropriate applicable fees prescribed by the Minister under the Collective Investment Schemes (Fees) Regulations, 2003.

(2) The Authority shall not consider any application under regulation 15 if the application is not accompanied by the licence fees referred to in subregulation (1).

PART IV—GRANT OF LICENCE.

15. Grant of licence

The Authority shall consider an application and inform the applicant of its decision within six months after the application has been lodged with it; except that where further information has been required in accordance with regulation 8, the

period of six months shall be calculated from the time that the required information is submitted to the Authority.

(2) If no decision is made by the Authority within the period stated in subregulation (1), the Authority shall immediately notify the applicant in writing, of the reasons for the delay.

16. Refusal to grant licence

(1) Where the Authority proposes to refuse an application for a licence, it shall give the applicant written notice of its intention to do so, stating the reasons for which it proposes to refuse the application and giving particulars of the rights conferred by subregulation(2).

(2) A person on whom notice is served under subregulation (1) may, within 21 days after receipt of service, make written representations to the Authority and, if desired, oral representations to a person appointed for that purpose by the Authority.

(3) The Authority shall have regard to any representations made in accordance with subregulation (2) in determining whether to refuse the application.

17. Form of licence

(1) A licence granted by the Authority shall be in Form 2 set out in the Second Schedule.

18. General conditions

(1) It shall be a condition of every licence that—

- (a) the licence shall be personal to the licensed person and shall not be transferable;
- (b) the licensed person shall—
 - (i) upon the making of a decision to make an alteration on any matter in respect of which the applicant has supplied or was required to supply information to the Authority in the course of making the application for that license, give written notice to the Authority of any such proposed alteration;
 - (ii) immediately after the occurrence of any event which the licensed person knows or ought to know, affects or may affect in any material respect, any matter in respect of which the licensed person has supplied or was required to supply information to the Authority in the course of making the application for that licence, give written notice to the Authority of any such event;
 - (iii) immediately upon the occurrence of any change in the management staff of the licensed person, and where the holder of the licence is a company, any change in the directors of the

company, give written notice to the Authority of any such change;

(c) the licensed person shall comply with any directions which may be given by the Authority in respect of a proposed alteration or occurrence of the event or change notified to the Authority under paragraph (b) of this subregulation;

(d) the licensed person shall not carry on, or hold itself out as carrying on, any business other than that permitted by the licence.

19. Notification to Authority

A licensed person shall communicate to the Authority notice of—

(i) any change in the principal place of business, in Form 4 set out in the Fourth Schedule and;

(ii) cessation of business, in Form 5 set out in the Fourth Schedule.

PART V—RENEWAL OF LICENCE.

20. Application for renewal of licence

(1) An application for renewal of a licence shall be made to the Authority not later than thirty days before the expiration of the license in Form 3 set out in the Third Schedule, and shall be accompanied by the prescribed annual licence fee.

(2) The Authority shall consider an application and inform the applicant of its decision within thirty days after the application has been lodged with it; except that where further information has been required in accordance with regulation 8, the period of thirty days shall be calculated from the time that the required information is submitted to the Authority.

(3) If no decision is made by the Authority within the period stated in subregulation (2), the Authority shall immediately notify the applicant, in writing, of the reasons for the delay.

(4) The provisions of regulation 16 apply where the Authority proposes to refuse an application for a licence.

21. Conditions for renewal of licence

In determining whether to renew a licence, the Authority shall consider the extent of compliance by the applicant with the Act and the regulations made under the Act.

PART VI—NON COMPLIANCE.

22. Obligation to comply with Regulations

(1) A licensed person shall, in the conduct of the licensed person's business, comply with the Act and these Regulations.

(2) Where a licensed person fails to comply with the requirements under the Act and these Regulations, the Authority may exercise its powers of intervention under section 40 of the Act to withdraw or suspend the licence.

PART VII—MISCELLANEOUS.

23. Misplacement of licence

Where the Authority is satisfied that a licence has been inadvertently lost, destroyed or defaced, the Authority shall replace the licence on payment by the licensed person of the prescribed fees.

24. Display of licence

(1) Every licensed person shall display the licence at all premises in which the licensed person transacts with the public the securities business authorised by the licence.

(2) The requirement in subregulation (1) shall not be taken to be satisfied unless the licence is displayed in such a manner as to be readily visible to the public.

(3) Where the licensed person has more than one office, a certified copy of the licence shall be issued by the Authority upon payment of the certification fee prescribed by the Collective Investment Schemes (Fees) Regulations, 2003.

SCHEDULES

FIRST SCHEDULE

Regulation 4

FORM 1

THE COLLECTIVE INVESTMENT SCHEMES ACT, 2003

THE COLLECTIVE INVESTMENT SCHEMES (LICENSING)
REGULATIONS, 2003.

APPLICATION FOR A LICENCE FOR A COLLECTIVE INVESTMENT SCHEME.

Notes: If space is insufficient to provide details, please attach annexure(s). Any annexure should be identified as such and signed by the signatory to this application.

1. Type of licence required (Tick whichever is applicable)—

- (a) open-ended investment company c
- (b) unit trust scheme c
- (c) depositary's licence c
- (d) trustee's licence c
- (e) authorised corporate director c
- (f) manager's licence c

2. (a) Is the business indicated in paragraph 1 the core principal business carried on or proposed to be carried on by the applicant? Yes/No.
- (b) If “No” in paragraph 1, indicate other businesses the applicant is engaged in or proposes to be engaged in.

3. Indicate area of proposed business for which the operator requires a licence—

4. (a) Name of company.....
- (b) Registered office of company.....
- (c) Date and place of incorporation
- (d) Address, telephone, e-mail address and fax numbers of principal place at which the business of the applicant is to be carried on.....

5. Details of capital structure—

- (a) Authorised capital Ug. Shs.....
- (b) Paid up capital Ug. Shs.....
- (c) Types of shares issued.....
- (d) Restrictions on share transfers, if any.....

6. Details of Shareholders:

	<i>Name</i>	<i>Address Shares Held</i>	<i>No. and Percentage of Acquisition</i>	<i>Date of</i>
(a)
(b)
(c)
(d)
(e)

7. Particulars of Directors:

	<i>Names</i>	<i>Address</i>	<i>Citizenship</i>	<i>Qualifications</i>	<i>Experience</i>
(a)
(b)
(c)

(d)

(e)

8. Details of key officers:

<i>Name</i>	<i>Educational Qualifications</i>	<i>Professional Qualifications.</i>
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(a)

(b)

9. Set out the name and address of each person who, directly or indirectly, exercises or has power to exercise a controlling influence over the management and policies of the applicant other than those shown as directors.

10. Does the applicant or any of its directors have an interest in one or more shares in any company, the shares of which are quoted on a securities exchange, the aggregate of the nominal amount of which constitutes not less than 5% of all the issued shares of the company?.....

11. Has the applicant or any of its directors within the past 10 years—

(a) been a member or partner in a member firm of a securities exchange?.....

(b) carried on business under any name other than the name or names shown in this application?.....

(c) been censured or disciplined by any professional body, society or association of which he or she was or is a member? (If “Yes”, attach annexure giving details, including name of the professional body, society or association).....

(d) been convicted of any offence other than a traffic offence in Uganda or elsewhere or are there any proceedings now pending which may lead to such a conviction? (If “Yes” attach annexure giving full details of the convictions or proceedings.)

12 (1) State the type of clients with whom the applicant proposes to do business;.....

(2) Describe in detail the organisational structure and internal control procedures which the applicant has adopted or proposes to adopt for the proposed business;.....

(3) State in detail the experience of the applicant and the applicant’s management staff in the proposed business;

13. State in detail the activity and the manner in which the applicant proposes to conduct the business for which the applicant requires a licence.....

14. Is the applicant or any director or secretary of the applicant company, a director of any company in Uganda or elsewhere? Yes/ No if Yes, give details of—

(a) names of companies;

- (b) places of incorporation; and
 - (c) dates of appointment.
15. Has the applicant or any director or secretary of the applicant company within the past 10 years— (Complete where relevant)
- (a) been licensed or registered in any place under any law which requires licensing or registration in relation to the proposed business?.....
 - (b) been licensed, registered or otherwise authorised by law to carry on any trade, business or profession in any place?.....
 - (c) been refused the right or restricted in its or his or her right to carry on any trade, business or profession for which a specific licence, registration or other authority is required by law in any place?.....
 - (d) been known by any name other than the name or names shown in this application?.....
 - (e) had judgment, including findings in relation to fraud, misrepresentation or dishonesty given against him or her in any civil proceedings, in Uganda or elsewhere? (If “yes”: using an annexure, give full details, including whether judgment is unsatisfied).....
 - (f) been declared bankrupt or compounded with or made an arrangement for the benefit of his or her creditors, in Uganda or elsewhere?.....
 - (g) been engaged in the management of any company other than those referred to in answer to paragraph 11?.....
 - (h) been refused a fidelity or surety bond in Uganda or elsewhere?.....
12. Set out below, details of each director and secretary of the applicant company's employment and business activities, during the previous 10 years.

<i>Name of individual director or activity applicant company</i>	<i>Name and address of to the</i>	<i>Nature of business or activity</i>	<i>Description of duties in relation employment</i>	<i>Period of employment secretary of (give exact dates)</i>	<i>employer or</i>
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13. Set out additional information (including any formal qualifications or training and the name of the institution that conducted the course) considered relevant to this application.

14. Set out below details of two persons (who are not related to the applicant, and neither of whom shall have any interest in the success or otherwise of this application) with whom the applicant or each director or secretary of the applicant company has had regular contact over the past five years and of whom the Authority may inquire regarding the applicant's character and reputation:

Name *Address* *Occupation*

(a)

(b)

15. I am aware of the provisions of section 79 of the Collective Investment Schemes Act, 2003, relating to false statements made in applications.

16. I declare that all information given in this application and in the attached annexure (if any) is true and correct.

Date

Signature.....
(*Name of Applicant's Director/Secretary**)

*Delete whichever is inapplicable.

SECOND SCHEDULE

Regulation 17

FORM 2

THE COLLECTIVE INVESTMENT SCHEMES ACT, 2003

THE COLLECTIVE INVESTMENT SCHEMES (LICENSING) REGULATIONS, 2003
LICENCE.

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

of (address)

and authorises the said person to conduct or carry on the business of
.....(type of business) in Uganda for a period of one year
beginning.....and ending.....(both dates inclusive).

THIS LICENCE is issued subject to observance of the requirements of the Collective Investment Schemes Act 2003, the regulations and rules made under the Act and such conditions as may be stipulated by the Authority.

Date:

Licence No.:

.....
Chairman
Capital Markets Authority

.....
Chief Executive
Capital Markets Authority

THIRD SCHEDULE

FORM 3

Regulation 20

THE COLLECTIVE INVESTMENT SCHEMES ACT, 2003.

THE COLLECTIVE INVESTMENT SCHEMES (LICENSING) REGULATIONS, 2003

APPLICATION FOR RENEWAL OF LICENCE.

1. Application is made for the renewal of a licence for—
 - (a) an open-ended investment company;
 - (b) a unit trust scheme;
 - (c) an authorized corporate director; or
 - (d) a manager of a unit trust scheme,

and the following statements are made in respect of the applicant—

(e) applicant's name:

(f) licence No:

(g) expiry date of licence:

2. Please complete the following—(Answer “Yes” or “No” in space provided. If “Yes” attach annexure giving all relevant particulars.)

(a) Since the last application—

(i) Has there been a change in the shareholders of the applicant?.....

(ii) Has there been a change in the applicant's directors, secretary, senior management personnel or external auditor?.....

(iii) Has the applicant or any of its directors or its secretary been suspended from membership of any securities exchange or otherwise disciplined by a securities exchange?.....

(iv) Have any of the applicant's directors been a director of any company other than those referred to in the last application?.....

*Delete whichever is inapplicable.

(v) Has the applicant taken any disciplinary action against any of its representatives?

(vi) Has the applicant received any complaint against any of its representatives?

(vii) Has the applicant undertaken to conduct any material new business activity? If so, state the nature of the activity.....

(b) Please furnish details of any other event which has occurred which is likely to have a significant effect on the applicant's business during the currency of the licence if granted (including any legal claim against the applicant.)

3. Since the last application, has any of the applicant’s directors or secretary—

(Answer “Yes” or “No” in space provided. If “Yes” attach annexure giving all relevant particulars.)

(a) been suspended from membership of any related business or otherwise disciplined by any regulatory body?

(b) been convicted of any offence other than a traffic offence in Uganda or elsewhere or are there any proceedings now pending which may lead to such a conviction?.....

(c) had judgment including findings in relation to fraud, misrepresentation or dishonesty given against him or her in any civil proceedings, in Uganda or elsewhere? (If “Yes”: using an annexure, give full details, including whether judgment is unsatisfied.)

(d) been declared bankrupt or compounded with or made an arrangement for the benefit of his or her creditors in Uganda or elsewhere?

(e) been engaged in the management of any company other than one referred to in the last application?

- (f) been refused a fidelity or surety bond in Uganda or elsewhere?.....
 - (g) undertaken to conduct any material new business activity? If so, state the nature of the activity.....
 - (h) been disciplined by any professional body or other membership body?.....
4. I am/We are* aware of the provisions of section 79 of the Collective Investment Schemes Act 2003 relating to false statements in applications.
 5. I/We* declare that all information given in this application and in the attached annexure (if any) is true and correct.

Date:.....

Signature.....
(Name of Applicant's Director/Secretary)*

*Delete whichever is inapplicable.

FOURTH SCHEDULE

FORM 4 *Regulation 19*

THE COLLECTIVE INVESTMENTS SCHEMES ACT, 2003.

THE COLLECTIVE INVESTMENT SCHEMES
 (LICENSING) REGULATIONS, 2003.

NOTICE OF CHANGE OF PRINCIPAL PLACE OF BUSINESS.

1. Name of licensed person:.....
2. (a) Type of licence held.....
 (b) Licence number.....
3. (a) Former address of place of business:.....
 (b) New address of place of business:.....

(c) Date of change of place of business:.....

Date:

Signature:.....

Name

FIFTH SCHEDULE

FORM 5

Regulation 19

THE COLLECTIVE INVESTMENT SCHEMES ACT, 2003

THE COLLECTIVE INVESTMENT SCHEMES
REGULATIONS, 2003.

NOTIFICATION OF CESSATION OF BUSINESS.

1. Name of licensed person:.....

2. (a) Type of licence held:.....

(b) Licence number:.....

3. Notice is hereby given that on the.....day of, 20.....business ceased to be carried on in Uganda by the above licensed person in respect of which the licence was licensed to carry on business.

Date:.....

Signature:.....

Name:.....

LEO KIBIRANGO,
Chairman, Capital Markets Authority.