

STATUTORY INSTRUMENT NO.....OF 2020

**The Securities Act
(Act No. 41 of 2016)**

**The Securities (Recognition of Self-Regulatory Organisation)
Regulations, 2020**

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IN EXERCISE of the powers contained in sections 29 and 221 of the Securities Act 2016, the following Regulations are hereby made:

PART I

PRELIMINARY PROVISIONS

Title 1. These Regulations may be cited as the Securities (Recognition of Self-Regulatory Organisations) Regulations, 2020.

Interpretation 2. (1) In these Regulations, unless the context otherwise requires –

“application” means an application made by a self-regulatory organisation to the Commission for recognition of the organisation as a self-regulatory organization for purposes of the Act;

“certificate of recognition” means a certificate issued by the Commission recognising a self regulatory organisation, in accordance with regulation 6, for purposes of giving effect to section 29 the Act;

“public interest test” means the criterion set out in regulation 3 for purposes of recognising a self-regulatory organisation as provided in section 29;

“register of members” means a register established and maintained by a self-regulatory organisation in accordance with regulation 15;

“register of self-regulatory organisations” means a register established and maintained by the Commission in accordance with regulation 16; and

“self-regulatory organisation” means an association registered in accordance with the Societies Act for purposes of Part IV of the Act.

Cap. 119

(2) A word or term defined in the Act and used in these Regulations but not defined in these Regulations shall have the same meaning assigned to the word or term in the Act.

Public
interest
criteria

Cap. 119

3. (1) For purposes of section 29 of the Act, the Commission may only recognise a self-regulatory organisation, if the organisation is registered as an association under the Societies Act, a company incorporated under the Companies Act or other entity the Commission may approve and the organisation fulfils the following public interest criteria:

- (a) its members are not a threat to public security;
- (b) the self-regulatory organisation is capable of regulating the standards of practice and business conduct by its members for the development of the capital markets;
- (c) the self-regulatory organisation has, as one of its objectives, the enforcement of standards of practice and business conduct by its members; and
- (d) its members have sworn a written undertaking not to –
 - (i) get involved or be involved in any act of moral turpitude, dishonesty, fraud, deceit, or misrepresentation, or any other act prejudicial to the development of the capital markets; and
 - (ii) disclose confidential information, including commercial and trade secrets, unpublished price sensitive information,

technologies and such other information as may be prescribed in rules issued by the Commission.

PART II

RECOGNITION OF SELF-REGULATORY ORGANISATIONS

Application
for certificate
of recognition

4. (1) An applicant seeking recognition as a self-regulatory organisation shall apply to the Commission for a certificate of recognition in Form SEC. 1 set out in the Schedule, which shall be accompanied by the attachments listed on the form and a prescribed fee.

(2) An applicant seeking recognition as a self-regulatory organisation shall file, with the Commission, a complete application in duplicate and addressed to the Commission.

(3) The constituent documents for an application for recognition as a self-regulatory organisation shall be signed by the applicant or person authorised to sign such documents.

(4) A complete application may be filed electronically, by hand, postal communication or through a licensed courier company.

(5) The date of filing of a complete application shall be the date the Commission receives duplicate copies of the complete application, stamped with the Commission's date stamp and returns one copy of the application to the person filing the application, provided that -

- (a) all requirements for filing a complete application have been complied with; and
- (b) the prescribed fee has been paid.

(6) A complete application shall be signed by the applicant or the person authorised to sign the application on behalf of an applicant.

(7) Where any space in an application form is insufficient, a statement may be attached, and marked as an addendum, cross-referencing each paragraph of the statement to the item in the complete application to which it pertains, provided it is initialled by the person making the application.

(8) A document pertaining to be an answer to any question in a form shall be attached to the form and shall be properly marked.

(9) The Commission shall not process an application where –

- (a) the recognition requirements are not fulfilled;
- (b) the applicant fails or neglects to answer any question in the form or to provide the prescribed or requested information; or
- (c) the application is an incomplete application.

(10) If an applicant fails or neglects to comply with the recognition requirements within ninety days of filing the complete application, the application shall lapse.

(11) The Commission shall, within ninety days of the receipt of a complete application, consider the application and if it rejects the application give the applicant the reasons for the rejection.

(12) If the Commission fails to respond within ninety days after receiving a complete application for recognition, the application shall be deemed to have been accepted and the self-regulatory organisation shall be deemed to have been recognised.

Request for
additional
information

5. (1) The Commission may, when considering an application, request in Form SEC.2 set out

in the Schedule, for additional information in support of the application.

(2) A self regulatory organisation shall, within seven days of receipt of a request made by the Commission in accordance with sub-regulation (1), submit the information to the Commission.

(3) The period within which additional information is requested for shall not count towards the time required for the Commission to determine the application for recognition.

Issue of
certificate of
recognition

6. (1) An application shall not be considered by the Commission unless the applicant -

(a) submits a sworn undertaking to comply with the Act, these Regulations and rules issued by the Commission;

(b) its promoters, directors and senior management meet the fit and proper criteria and the assessment elements or requirements specified in rules issued by the Commission;

(c) fulfils the public interest criteria and the assessment elements or requirements prescribed in rules issued by the Commission; and

(d) submits any other additional information specified in the Act, these Regulations and rules issued by the Commission, supporting the application.

(2) Where the Commission is satisfied that a self-regulatory organisation meets the requirements of the Act, these Regulations and the rules issued by the Commission, the Commission shall, within ninety days of

receipt of the application, issue a certificate of recognition to the self-regulatory organisation in Form SEC. 3 set out in the First Schedule, on payment of the prescribed fee.

(3) The certificate of recognition issued, in accordance with sub-regulation (1), shall be subject to such terms and conditions as the Commission may impose and the specific Commission's functions delegated to the self-regulatory organisation.

(4) A self regulatory organisation shall inform the Commission of any changes in the status of the organisation or any document filed with the Commission for purposes of the application for recognition.

(5) The Commission shall publish, the details of a self-regulatory organisation to whom a certificate of recognition has been issued, in the Gazette and a newspaper of general circulation in Zambia or on the Commission's website or other suitable media.

(6) A certificate of recognition shall be displayed in a conspicuous place at the office of the self-regulatory organisation.

Refusal to
issue
certificate of
recognition

7. (1) The Commission shall refuse to issue a certificate of recognition if –

- (a) the self-regulatory organisation fails to fulfill the public interest criteria, the requirements prescribed in these Regulations and the rules issued by the Commission; or
- (b) the certificate of recognition issued to the self regulatory organisation was revoked by the Commission within the preceeding twelve months before the date of the application.

(2) The Commission shall, where it refuses to issue a certificate of recognition, in accordance with sub-regulation (1), inform the self-regulatory organisation, in Form SEC. 4 in the Schedule, within seven days of the decision, giving the reasons for the refusal.

Validity of certificate of recognition

8. A certificate of recognition, issued in accordance with regulation 6, shall be valid until it is withdrawn by the Commission or surrendered by the self-regulatory organisation, in accordance with these Regulations.

Variation of certificate of recognition

9. (1) The Commission may vary the terms and conditions of a certificate of recognition on its own initiative or on the request of the self-regulatory organisation.

(2) Where the Commission varies the terms and conditions of a certificate of recognition, on its own initiative, it shall, before effecting the variation, give notice to the self-regulatory organisation of its intention to vary the terms and conditions of the certificate of recognition and request the self-regulatory organisation to show cause, within a specified period, why the terms and conditions of the certificate of recognition should not be varied.

(3) An application for the variation of the terms and conditions of a certificate of recognition shall be made in Form SEC. 5 set out in the Schedule.

(4) The Commission shall, where it approves an application for the variation of the terms and conditions of a certificate of recognition, notify the self-regulatory organisation of the amended terms and conditions.

Application for duplicate certificate

10. (1) A self-regulatory organisation may, where its certificate of recognition is lost, damaged or defaced, apply to the Commission for a duplicate certificate of recognition in Form SEC. 6 set out in the Schedule.

(2) The Commission may issue a duplicate certificate of recognition to a self-regulatory organisation, on payment of a prescribed fee.

Suspension of certificate

11. (1) The Commission may, if it is satisfied after due investigation, suspend the certificate of recognition issued in accordance with regulation 6.

(2) The Commission shall, before suspending a certificate of recognition, give notice to the self-regulatory organisation of the Commission's intention to suspend the certificate of recognition and request the self-regulatory organisation to show cause, within a specified period, why the certificate of recognition should not be suspended.

(3) A notice of intention to suspend a certificate of recognition shall be in Form SEC. 7 set out in the Schedule and the notice may specify remedial measures to be taken by the self-regulatory organisation, within a period specified, to rectify the non-compliance with the Act, these Regulations or rules issued by the Commission.

(4) The Commission shall suspend a certificate of recognition if the self-regulatory organisation fails to show cause, to the satisfaction of the Commission, why the certificate of recognition should not be suspended or does not take remedial measures, within the period specified in the notice issued as specified in sub-regulations (2) and (3).

(5) A notice of the suspension of a certificate of recognition shall be in Form SEC. 8 set out in the the Schedule.

(6) The Commission shall, where it suspends a certificate of recognition of a self-regulatory organisation, revoke, in whole, any delegation of functions or powers assigned to the self-regulatory organisation in accordance with section 30 (1) of the Act.

(7) The Commission may, where it has suspended a certificate of recognition of a self-regulatory organisation, publish such fact in the Gazette and a newspaper of general circulation in Zambia or on the Commission's website or other suitable media.

Withdraw of
certificate of
recognition

12. (1) The Commission shall withdraw a certificate of recognition, if a self-regulatory organisation –

- (a) or at least half of its members are in contravention of the Act, these Regulations and rules issued by the Commission;
- (b) fails to regulate its members in accordance with the delegated powers of the Commission as provided in section 30(1) of the Act;
- (c) fails to operate in the public interest;
- (d) obtained the certificate by fraud or deliberate or negligent submission of false information or statements; or
- (e) fails to comply with any other relevant written law and its registration is terminated in accordance with that law.

(2) The Commission shall, before withdrawing a certificate of recognition, give notice to the self-regulatory organisation of the Commission's intention to revoke the certificate of recognition and request the self-regulatory organisation to show cause, within a specified period, why the certificate of recognition should not be withdrawn.

(3) A notice of intention to withdraw a certificate of recognition shall be in Form SEC. 7 set out in the Schedule and the notice may specify remedial measures to be taken by the self-regulatory organisation, within a period specified, to rectify the non-compliance with the Act, these Regulations or rules issued by the Commission.

(4) The Commission shall withdraw a certificate of recognition, on such terms and conditions as it may impose, if the self-regulatory organisation fails to show cause, to the satisfaction of the Commission, why the certificate of recognition should not be withdrawn or does not take remedial measures, within the period specified in the notice issued as specified in sub-regulations (2) and (3).

(5) A notice of the withdrawal of a certificate of recognition shall be in Form SEC. 8 set out in the Schedule.

(6) The Commission shall, where it withdraws a certificate of recognition of a self-regulatory organisation, revoke, in whole, any delegation of functions or powers assigned to the self-regulatory organisation in accordance with section 30(1) or the Act.

(7) The Commission may, where it has withdrawn a certificate of recognition of a self-regulatory organisation, publish such fact in the Gazette and a newspaper of general circulation in Zambia or on the Commission's website or other suitable media.

Transfer of certificate of recognition

13. A certificate of recognition shall not be transferable and cannot be assigned to any person.

Voluntary surrender of certificate of recognition

14. (1) A self-regulatory organisation intending to voluntarily surrender the certificate of recognition, in accordance with section 29(6) of Act, shall, three months

before surrendering the certificate of recognition, give notice to the Commission of such surrender and the reasons why it intends to voluntarily surrender its certificate of recognition.

(2) The Commission may accept the surrender of the certificate of recognition, if it is satisfied that –

- (a) the surrender of the certificate of recognition is not prejudicial to the public interest;
- (b) the interests of the members have been duly protected; and
- (c) all obligations of the self-regulatory organisation have been duly met.

(3) A voluntary surrender of a certificate of recognition made under sub-regulation (2) shall be subject to the terms and conditions as the Commission may impose and directives issued in accordance with regulation 15, with respect to the operations, records, other documents and the status and interests of the members of the self-regulatory organisation.

(4) The Commission shall, following the acceptance of a voluntary surrender of a certificate of recognition, cancel the certificate and the cancellation shall take effect six months after the surrender of the certificate of recognition.

(5) The Commission may, where it accepts the voluntary surrender of a certificate of recognition of a self-regulatory organisation, publish such fact in the Gazette and a newspaper of general circulation in Zambia or on the Commission's website or other suitable media.

Directives and actions to be taken on withdrawal or surrender of certificate of recognition

15. (1) The Commission may, where it withdraws or accepts the surrender of a certificate of recognition, in accordance with these Regulations, issue directives with regard to the regulation of the members of

the self-regulatory organisation, the operations of the self-regulatory organisations and transfer of records or any other document relating to the self-regulatory organisation.

(2) Where the Commission issues directives, in accordance with sub-regulation (1), the Commission shall appoint an appropriately qualified person, on such terms and conditions as it may determine, to regulate the members of the self-regulatory organisation, and to take charge of the operations of the self-regulatory organisation and the records or any other document relating to the self-regulatory organisation.

(3) Where a member of the self-regulatory organisation was the cause, whether directly or indirectly, of the revocation of the certificate of recognition of the self-regulatory organisation, the Commission shall, after due inquiry, consider the nature of the non-compliance of the member and take such action as is appropriate, including the suspension or cancellation of the member's license as a capital market operator.

(4) Where, after due inquiry, the Commission finds that any member is and has been in compliance with the Act, the requirements of these Regulations, rules issued by the Commission and the terms and conditions of a license, the Commission shall permit the member to continue operating or doing business as a capital market operator without being a member of a self-regulatory organisation for a period not exceeding six months.

(5) Where the Commission permits a member to continue operating as a capital market operator, without being a member of a self-regulatory organisation, the capital market operator shall, within six months, join another self-regulatory organisation or establish, in conjunction with other compliant members, a new self-

regulatory organisation, in accordance with the Act and these Regulations.

(6) Where a member of a self-regulatory organisation, whose recognition has been revoked or surrendered, joins another self-regulatory organisation or establishes a new self-regulatory organisation, as provided in sub-regulation (5), the records or other documents relating to the member shall be transferred to that self-regulatory organisation.

(7) The Commission may, where it has revoked or accepted the surrender of a certificate of recognition of a self-regulatory organisation, publish such fact in the Gazette and a newspaper of general circulation in Zambia or on the Commission's website or other suitable media.

PART III GENERAL PROVISIONS

Register of
members

16. (1) A self-regulatory organisation shall establish and maintain a register of members in a manner and style prescribed by the Commission in rules.

(2) The self-regulatory organisation shall enter into the register of members such information as the Commission may prescribe in rules issued by the Commission.

(3) The register of members shall, on payment of the prescribed fee, be open for inspection by the public during the self-regulatory organisation's working hours.

(4) A person may, on payment of the prescribed fee, make copies of, or take extracts from the register of members.

(5) The register of members may be established and maintained in non-electronic or electronic form or partly in electronic form.

(6) The register of members shall be kept at the registered office of a self-regulatory organisation.

Register of self-regulatory organisations

17. (1) The Commission shall establish and maintain a register of self-regulatory organisations in Form SEC. 9 set out in the Schedule.

(2) The Commission's register of self-regulatory organisations shall, on payment of the prescribed fee, be open for inspection by the public during the Commission's prescribed operating hours.

(3) A person may, on payment of the prescribed fee, make copies of, or take extracts from the register of self-regulatory organisations.

(4) The register of self-regulatory organisations may be established and maintained in non-electronic or electronic form or partly in electronic form.

(5) The register of self-regulatory organisations shall be kept at the office of the Commission.

Appeal

18. (1) A self-regulatory organisation which is dissatisfied with a decision of the Commission may appeal to the Tribunal within thirty days of receipt of the decision, in accordance with the Act.

(2) The Commission shall notify a self-regulatory organisation of its right to appeal against its decision when transmitting its decision to the self-regulatory organisation.

SCHEDULE

PRESCRIBED FORMS

(Regulations 4(1), 5(1), 7(1), 7(2), 9(3), 10(1), 11(3) and 11(5)) Form SEC. 1

(Regulation 4 (1))

(To be completed in triplicate)

COMMISSION LOGO

The Securities Act, 2016

(Act No. 41 of 2016)

The Securities (Recognition of Self-Regulatory Organisation) Regulations, 2020

APPLICATION FOR A CERTIFICATE OF RECOGNITION			
Please complete in block letters	<i>Shaded fields for official use only</i>	Application No.	
		Date and Time	
<i>Information Provided</i>	<i>Information Required</i>		✓
A. PARTICULARS OF SELF-REGULATORY ORGANISATION			
1	Name		
2	Type of entity		
3	Business Premises		
	a) Physical address		
	b) Plot No:		
	c) Street:		
	d) Postal address		
	e) Telephone No:		
	f) Fax No:		
	g) Email address		
	h) Town		
4.	MEMBERS AND PRINCIPLE OFFICERS		
	MEMBERS	PRINCIPLE OFFICES	
1.			
2.			
3.			

4		
AUDITORS DETAILS		
ATTACHMENTS		
1. Copy of Constitution		2. Copy of By-laws, rules policies, procedures, practices, interpretation and Code of conduct
3. A sworn undertaking by the Directors in 1& 2 above		4. The Structure of the organisation and the classes of membership
5. Instruction and Inspection manual of members' activities		6. A sworn undertaking by the members on behalf of the self-regulatory organisation that it shall <ul style="list-style-type: none"> a. to maintain all necessary documents as the Commission may specify. b. to inform the Commission of any amendments to the documents c. comply with and ensure compliance from its membership of the Act, Regulations and the Rules made by the Commission
7. Certificate of registration in accordance with the Societies Act		8. Proposed organisational structure
<p>Declaration: I declare that all the information I have stated in this application is correct and truthful to the best of my knowledge and belief. I understand that submission of false information shall render the application void and that if approved, it shall be revoked and the certificate cancelled.</p>		
..... Name	 Designation
..... Name	 Designation
<p>FOR OFFICIAL USE ONLY</p> Date of submission:..... Application Number:..... Payment Receipt Number:..... Date Application Accepted:..... Date Application Rejected (Notify self-regulatory organisation):.....		



The Securities Act, 2016
(Act No. 41 of 2016)

The Securities (Recognition of Self-Regulatory Organisation) Regulations, 2020

REQUEST FOR ADDITIONAL INFORMATION

To:.....

Address:.....

Application No:.....

You are requested to furnish the following information in respect of your application for withindays of this Notice:

- (a)
- (b)
- (c)
- (d)

If you fail to furnish the requested information within the stipulated period, your application will be treated as invalid and shall be rejected.

Dated this..... day of 20.....

.....
Chief Executive Officer





The Securities Act, 2016

(Act No. 41 of 2016)

The Securities (Recognition of Self-Regulatory Organisation) Regulations, 2020

CERTIFICATE OF RECOGNITION

Registration No.:.....
Certificate No.:.....
This is to certify that.....
.....
of (Physical Address)
.....
.....

This Certificate is valid until suspended, revoked or voluntarily surrendered
The terms and conditions of the Certificate of Recognition are overleaf.

.....
Chief Executive Officer





The Securities Act, 2016
(Act No. 41 of 2016)

The Securities (Recognition of Self-Regulatory Organisation) Regulations, 2020

NOTICE OF REFUSAL TO ISSUE CERTIFICATE OF RECOGNITION

(1) Here
insert the
full name
of the
applicant

To (1)
.....

(2) Here
insert the
reference
No. of the
application

IN THE MATTER OF (2).....you are notified that your application
for (3).....has been refused by the Commission
on the following grounds:

(3) Here
insert type
of
application

- (a)
- (b)
- (c)
- (d)

Dated this..... day of 20.....

.....
Chief Executive Officer



COMMISSION LOGO

The Securities Act, 2016

(Act No. 41 of 2016)

The Securities (Recognition of Self-Regulatory Organisation) Regulations, 2020

APPLICATION FOR VARIATION OF THE TERMS, CONDITIONS AND DELEGATED FUNCTIONS OF A CERTIFICATE OF RECOGNITION			
Please complete in block letters	<i>Shaded fields for official use only</i>	Application No.	
		Date and Time	
<i>Information Provided</i>	<i>Information Required</i>		✓
PARTICULARS OF SELF-REGULATORY ORGANISATION			
1	Name		
2	Type of entity		
3	Business Premises		
	a) Physical address		
	b) Plot No:		
	c) Street:		
	d) Postal address		
	e) Telephone No:		
	f) Fax No:		
	g) Email address		
	h) Town		
4.	EXISTING	PROPOSED AMENDMENTS	REASONS FOR AMENDMENT

Declaration: I declare that all the information I have stated in this application is correct and truthful to the best of my knowledge and belief. I understand that submission of false information shall render the application void and that if approved, it shall be revoked and the certificate cancelled.

.....
Name

.....
Designation

.....
Name

.....
Designation

FOR OFFICIAL USE ONLY

Date of submission:.....

Application Number:.....

Payment Receipt Number:.....

Application Accepted:.....

Application Rejected (Notify the Self-regulatory organisation):.....

Consultation



The Securities Act, 2016

(Act No. 41 of 2016)

The Securities (Recognition of Self-Regulatory Organisation) Regulations, 2020

APPLICATION FOR DUPLICATE CERTIFICATE OF RECOGNITION			
Please complete in block letters	<i>Shaded fields for official use only</i>	Application No.	
		Date and Time	
<i>Information Provided</i>	<i>Information Required</i>		✓
PARTICULARS OF SELF-REGULATORY ORGANISATION			
1	Name		
2	Type of entity		
3	Business Premises		
	a) Physical address		
	b) Plot No:		
	c) Street:		
	d) Postal address		
	e) Telephone No:		
	f) Fax No:		
	g) Email address		
	h) Town		
4.	Affidavit of loss, etc		

Declaration: I declare that all the information I have stated in this application is correct and truthful to the best of my knowledge and belief. I understand that submission of false information shall render the application void and that if approved, it shall be revoked and the certificate cancelled.

.....
Name

.....
Designation

.....
Name

.....
Designation

FOR OFFICIAL USE ONLY

Date of submission:.....

Application Number:.....

Payment Receipt Number:.....

Application Accepted:.....

Application Rejected (Notify Self-regulatory organisation):.....

Consultation



The Securities Act, 2016

(Act No. 41 of 2016)

The Securities (Recognition of Self-Regulatory Organisation) Regulations, 2020

NOTICE OF INTENTION TO REVOKE CERTIFICATE OF RECOGNITION

(1) Here insert the full name of the self regulatory organisatio

To (1)

(2) Here insert the Registration No.

IN THE MATTER OF (2).....you are notified that the Commission Intends to revoke your certificate on the following grounds:

- (e)
(f)
(g)
(h)

(3) Here insert the number of days stipulated

Accordingly, you are requested to show cause why your certificate should not be revoked and to take action to remedy the breaches set out in paragraphs.....(above) within (3).....days of receiving this notice. Failure to remedy the specified breaches shall result in the revocation of your Certificate.

Dated this..... day of 20.....

Chief Executive Officer





The Securities Act, 2016
(Act No. 41 of 2016)

The Securities (Recognition of Self-Regulatory Organisation) Regulations, 2020

NOTICE OF REVOCATION CERTIFICATE OF RECOGNITION

(1) Here insert the full name of the self regulatory organisatio

To (1)
.....

(2) Here insert the Certificate No.

(2).....

(3) Here insert the Registration No. (4) Here insert period of suspension

IN THE MATTER OF (3).....you are notified that your Certificate of Recognition has been revoked on the following grounds:

.....
.....
.....
.....

Dated this..... day of 20.....

.....
Chief Executive Officer





The Securities Act, 2016

(Act No. 41 of 2016)

The Securities (Recognition of Self-Regulatory Organisation) Regulations, 2020

REGISTER OF Self-Regulatory Organisations

No	Name of Certificate holder	Physical address of Business	Registration Number	Certificate Number	Date of issue of Certificate
1.					
2.					
3.					
4.					
5.					
6.					

,
Minister of Finance

LUSAKA

, 2020

(MOF/)