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

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**The Securities (Self-Regulatory Organizations) (General Requirements)  
Rules, 2020**

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**IN EXERCISE** of the powers contained in sections 31 and 221 of the Securities Act 2016, the following Rules are hereby made:

## **PART I**

### **PRELIMINARY PROVISIONS**

- Title 1. These Rules may be cited as the Securities (Self-Regulatory Organisations) (General Requirements) Rules, 2020.
- Interpretation 2. (1) In these Rules, unless the context otherwise requires –
- “adverse report” means a report, about a person, which the Commission is satisfied would have a detrimental effect on the public interest, if such person is allowed to serve on the board of directors of a recognised self-regulatory organisation or be employed to manage the affairs of a recognised self-regulatory organisation;
- “association” means an entity, organisation or group of a class of capital markets operators, or a combination of various capital market operators, registered under the Societies Act and which intends or applies for a certificate of recognition as a self-regulatory organisation in accordance with the Act, the Regulations and these Rules;
- Cap. 119 “class” means similar in function or sphere of functions relative to the services provided;
- “delegated functions” means the functions and powers of the Commission which have been delegated to a recognised self-regulatory organisation, in accordance with section 30 of the Act and these Rules;

“recognised self-regulatory organisation” means an association which has been recognised by the Commission as a self-regulatory organisation, in accordance with the Act, the Regulations and these Rules;

“regulatory requirements” means the standards, operational and licensing processes and procedures, qualifications and business conduct measures and practices, statutory obligations and prescribed measures, mechanisms, rules, directives, notifications, guidelines, codes, polices, programmes and other requirements, as specified in these Rules, the Act and rules and regulations issued under the Act; and

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“Regulations” means regulations dealing with self-regulatory organisations issued in accordance with the Act;

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

## **PART II**

### **MATTERS INCIDENTAL TO RECOGNITION AS SELF-REGULATORY ORGANISATIONS**

Recognition of associations as self-regulatory organisations

3. (1) The recognition requirements for a self-regulatory organisation stipulated in the Act, Regulations and this Part shall apply to the recognition of self-regulatory organisations.

(2) An association may apply for recognition as a self-regulatory organisation by submitting a complete

application, accompanied by its certificate of registration issued under the Societies Act or a certificate of incorporation issued under the Companies Act in the case of a securities exchange, to the Commission in accordance with the Act, Regulations and these Rules.

(3) The Commission shall recognize an association as a self-regulatory organisation if the association fulfils the regulatory requirements pertaining to self-regulatory organisations specified in the Act, Regulations and these Rules.

Police  
clearance  
and finger  
printing

4. (1) A director and senior manager of an association shall, before a complete application for recognition is filed with the Commission, submit finger prints for security clearance with an appropriate law enforcement agency.

(2) A law enforcement agency shall provide the Commission with a report on the security clearance conducted under sub-rule (1).

(3) If a law enforcement agency gives an adverse report on a director or senior manager, the Commission shall refuse to recognise the association for purposes of the Act unless the director or senior manager resigns or is dismissed by the association.

(4) Where a director or senior manager, on whom an adverse report is made, resigns or is dismissed by the association, the Commission may proceed to consider the complete application.

Operational  
manual of  
association

5. An association shall submit, together with its complete application, an operational manual which shall detail the proposed organisational structures, procedures

and systems of the association, which shall include the following:

- (a) an organisation chart, identifying the association's board of directors, the chief executive officer, senior management, compliance officer and officer dealing with money laundering, including the reporting lines of each unit within the association;
- (b) measures to identify and manage conflicts of interest amongst its members;
- (c) mechanisms and rules guiding its members, as the case may be, on how to—
  - (i) open and process client accounts;
  - (ii) process and record orders and execute and settle trades;
  - (iii) give prudent and suitable advice and services to clients; and
  - (iv) handle and keep custody of client money and client assets;
- (d) policies, procedures, systems and controls to resolve client complaints, monitor unethical conduct and market abuse, prevent money laundering and combat terrorist and proliferation financing;
- (e) prototypes of agreements, arrangements and understandings for use by its members for provision of material services or operations, including, if applicable –
  - (i) investment advice;
  - (ii) retail portfolio management;
  - (iii) execution, clearing and settlement of trades; and

- (iv) product offers or services provided or sponsored by its members, or associated with a third party;
- (f) procurement and use of audit services; and
- (g) any other information the Commission may require.

Public  
interest  
assessment

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6. (1) In assessing an association for purposes of recognition as a self-regulatory organisation and determining whether the association meets the public interest criteria, as provided for in section 29 of the Act and the Regulations, the Commission shall satisfy itself that the association is capable of regulating the operations and standards of practice and business conduct of its members and their representatives, providing protection of investors, maintaining the public interest and enabling effective compliance with the Act, these Rules and the Regulations.

(2) The Commission shall make the assessment, required to be done as provided in sub-rule (1), from the association's proposed –

- (a) rules, by-laws, policies, interpretations and procedures prescribing or relating to standards of practice and business conduct;
- (b) code of ethics and conduct pertaining to its members;
- (c) diagram of its information technology systems, including relevant communication and access systems;
- (d) risk management policies, internal procedures and compliance and regulatory programmes and procedures, showing practicability and enabling its members to minimise risk, protect

- investors, encourage competition and capital formation and safeguard the integrity and efficiency of the market;
- (e) anti-money laundering and anti-terrorism financing procedures showing compliance with the law and general international requirements; and
  - (f) any other publicly available information concerning the association.

**PART III**  
**MEMBERSHIP AND RESPONSIBILITIES OF RECOGNISED SELF-REGULATORY ORGANISATIONS**

Membership of recognised self-regulatory organisations

7. (1) Every capital market operator shall, for purposes of compliance with section 208 of the Act, be a member of a recognised self-regulatory organisation.

(2) Where a dealer effects transactions on any securities exchange, the dealer shall be a member of a recognised self-regulatory organisation which is an exchange or an association of securities exchanges.

Board of directors and senior management

8. (1) At least one-third of the members of the board of directors of a self-regulatory organisation shall be independent persons.

(2) A self-regulatory organisation shall endeavour to include both public representatives and capital markets operators on its board of directors.

(3) A self-regulatory organisation shall, before applying for recognition, in accordance with Part II, ensure a fair representation of the market in the selection of its directors and senior management.



(4) A recognised self-regulatory organisation shall keep and maintain a record of its directors, chief executive officer and other senior management officers, including their experience, qualifications and professional accreditation.

Responsibilities  
of board of  
directors

9. The responsibilities of a board of directors of a recognised self-regulatory organisation shall include the following:

- (a) approving the recognised self-regulatory organisation's goals, strategies, plans and policies;
- (b) approving drafts of the self-regulatory organisations rules, by-laws, policies, interpretations and procedures and, where required by the Act, submitting these for approval of the Commission;
- (c) approving annual budgets and approving periodic and annual financial information of the recognised self-regulatory organisation;
- (d) ensuring commitment with policies and procedures adopted to comply with regulatory requirements and internal bylaws, rules, policies, procedures, practices and interpretations;
- (e) establishing a code of conduct, business conduct and operations and standards of practice for its members;
- (f) preparing information and annual reports for submission to the annual general meeting of its members;

- (g) forming specialised committees, such as an audit committee, as is necessary to carry out its functions and responsibilities;
- (h) monitoring and evaluating the powers delegated to senior management, assessing the level of implementation of its resolutions and taking the necessary action when required;
- (i) generally supervising performance of senior management;
- (j) appointing or dismissing the chief executive officer and other senior management officers, after following due process; and
- (k) ensuring validity of financial and accounting systems, including those relating to financial reporting.

Notifications of resignations, dismissals or appointments of directors and senior management

10. A recognised self-regulatory organisation shall notify immediately the Commission of the occurrence of a resignation, dismissal or appointment of any of the following persons:

- a) the chief executive officer;
- b) a director of the board;
- c) a senior management officer; or
- d) a compliance officer.

Contents of register of members

11. A recognised self-regulatory organisation shall maintain an updated registry of its members, as provided in the Regulations, which shall contain –

- (a) general information on its members, including the names, telephone numbers, physical and

postal addresses, electronic addresses, websites, if any;

- (b) information on the licensed or authorised functions and activities of its members, including the services provided to clients and indicators of activity related to the services provided;
- (c) its members quarterly and annual audited financial statements as submitted to the Commission;
- (d) charges and disciplinary cases against a member and the penalties imposed by the recognised self-regulatory organisation on a member; and
- (e) such other information on its members that the recognised self-regulatory organisation considers necessary or appropriate to be included in the registry.

Oversight of members

12. (1) A recognised self-regulatory organisation shall, using off-site and on-site supervisory tools, exercise general oversight of its members to ensure compliance with its rules, by-laws, policies, interpretations and procedures, licensing and regulatory requirements.

(2) A recognised self-regulatory organisation shall not misuse of its oversight role to enable a participant to unfairly gain advantage in the market.

Enforcement of rules, etc and regulatory requirements

13. (1) A recognised self-regulatory organization shall, in order to ensure enforcement with its rules, by-laws, policies, interpretations and procedures and regulatory requirements, establish a

disciplinary committee, comprised of independent experts, who are capital markets operators from its own membership, to –

(a) hear and decide on disciplinary cases against non-compliant members; and

(b) impose penalties, including expulsion, suspension, limitation of operations, fines, or censures.

(2) A recognised self-regulatory organisation shall ensure all information and documents relating to a disciplinary proceeding are properly recorded and kept.

Record keeping obligations

14. A recognised self-regulatory organisation shall retain records with sufficient information on its members and the self-regulatory organisations activities.

Confidentiality of information

15. A recognised self-regulatory organisation shall keep confidential information obtained from its members and members' clients, except where disclosure is required by these Rules, the Commission, the Tribunal or a court.

Handling of complaints

16. (1) A recognised self-regulatory organisation shall promptly and fully investigate every complaint received from a member or a member's client, and shall, as provided in its rules, appoint a person who has no interest in the matter to investigate it and take appropriate remedial action in the matter in line with the rules of the self-regulatory organisation.

(2) A recognised self-regulatory organisation shall ensure all documents relating to an investigation are properly recorded and kept.

17. (1) A recognised self-regulatory organisation may, subject to the approval of the Commission, delegate ancillary administrative and management functions, excluding statutory and delegated functions, to an external party, except that it shall remain liable for anything performed or decided on by the external party.

(2) Where a recognised self-regulatory organisation delegates ancillary administrative and management functions to an external party, as provided in sub-rule (1), it shall put in place appropriate safeguards and measures, including the following:

- (a) doing an assessment of whether the external party is suitable or capable of carrying out the ancillary administrative and management functions, taking into account the degree of responsibility involved;
- (b) providing clear documentation of the extent and limits of the ancillary administrative and management functions, including compliance obligations with regard to any relevant business conduct rules or codes of conduct;
- (c) putting in suitable arrangements to supervise the manner in which the ancillary administrative and management functions are being performed; and
- (d) taking appropriate remedial action if any concern arises on the performance of the ancillary administrative and management functions.

## PART IV

### DELEGATED FUNCTIONS OF RECOGNISED SELF-REGULATORY ORGANISATIONS

Delegated functions of recognised self-regulatory organisations

18. (1) A recognised self-regulatory organisation shall –

- (a) preserve market integrity by creating fair, efficient and transparent markets;
- (b) preserve financial integrity by reducing systemic risk;
- (c) protect investors by developing qualifications and standards for its members; and
- (d) provide oversight of the business conduct of its members, including its members' relationships with clients and other capital market operators and participants.

(2) Without prejudice to sub-rule (1), the Commission may delegate to a recognised self-regulatory organisation any of the following delegated functions:

- (a) setting qualifications and standards for its members;
- (b) implementing and enforcing rules of conduct and practice relating to its members;
- (c) providing for mechanisms for the resolution of disputes amongst its members, through alternative dispute resolution mechanisms;
- (d) continuously evaluating the regulatory field, taking into account the changes that are occurring or shall occur in the market;
- (e) contributing to the quality of regulation and content of policy dealing with the public interest, by collaborating with stakeholders, appropriate authorities and the Commission;

- (f) performing certain licensing functions as specified in these Rules or as directed by the Commission, subject to the Commission's oversight as provided in licensing standards and requirements;
- (g) ensuring compliance with the standards and practices set by the recognised self-regulatory organisation, so as to promote ethical industry practices and improve transparency within the securities sector;
- (h) monitoring and evaluating fees, commissions, charges and other expenses paid by clients to its members and their representatives;
- (i) monitor compliance by a capital market operator with the taking out of professional indemnity insurance as required under the Act;
- (j) facilitate investor education and financial literacy programmes for the different capital market stakeholders; and
- (k) promote the development of new products and services in the capital markets industry.

(3) A recognised self-regulatory organisation may, in furtherance of the performance of the delegated function under sub-rule (2) -

- (a) develop competitive mechanisms and use regulatory approaches which are flexible, effective and efficient to provide the necessary protections in the market and be responsive to the needs of participants;
- (b) carry out performance audits of capital market operators when requested to do so by the Commission; and

- (c) oversee arbitration, mediation and reconciliation between investors and its members;

Operations,  
standards of  
practice and  
business  
conduct

19. (1) A recognised self-regulatory organisation shall maximize the regulatory benefits of an orderly market, while minimizing the cost of doing business.

(2) Without prejudice to sub-rule (1), a recognised self-regulatory organisation shall –

- (a) design, implement and evaluate compliance and regulatory programmes that are necessary for effective regulation, operation and compliance and enforcement of delegated functions and these Rules;
- (b) ensure that compliance and regulatory programmes are transparent and accountable, by monitoring its members professional standards of behaviour on matters, including confidentiality and procedural fairness, making rules accessible to the public in printed form or over the internet, publicising significant disciplinary actions taken against its members and providing educational outreach programmes;
- (c) operate a fair, financially sound and competitive market;
- (d) share information and cooperate with other recognised self-regulatory organisations; and
- (e) encourage participants and other professional trade associations to contribute to the development of industry best practices and standards and comply with these practices and standards.



(3) A recognised self-regulatory organisation shall provide advice to the Commission on market operations and practices and be responsible for the following regulatory practices:

- (a) investigating non-compliance with the Act, and rules and regulations made in accordance with the Act, as directed by the Commission;
- (b) conducting financial, operations and sales practice examinations of its members as determined by the Commission;
- (c) establishing and enforcing financial, operational and sales practice standards for its members;
- (d) undertaking surveillance of market activity;
- (e) conducting fit and proper and public interest assessments, and initial due diligence investigations, on applicants for licensing as directed by the Commission;
- (f) handling appeals from the clients of its members; and
- (g) setting surveillance programmes to detect non-compliant conduct.

(4) A recognised self-regulatory organisation shall ensure public participation in deliberations pertaining to regulatory policy and rulemaking.

(5) A recognised self-regulatory organization's compliance and regulatory programme shall describe its regulatory objectives, what it intends to do in the next year, how it will do it and what it will cost, providing a cost-benefit analysis.

(6) The compliance and regulatory programme of a recognised self-regulatory organisation shall –

- (a) be sufficiently flexible to permit its members and participants to respond to inevitable change in an innovative, timely and sensitive manner; and
- (b) have clear guidelines that can be objectively applied.

(7) A recognised self-regulatory organisation shall, as part of its compliance and regulatory programme, develop guidebooks and other educational material to help its members meet their regulatory responsibilities.

Mechanisms for coordination and information sharing

20. A recognised self-regulatory organisation shall put in place mechanisms for effective coordination and information sharing among its members, other recognised self-regulatory organisations and participants, using established best practice regimes, in order to –

- (a) address cross-market issues;
- (b) address potential market abuse or systemic risk concerns that may impact more than one market; and
- (c) ensure that standards adequately reflect legitimate business considerations.

Information requirements for recognised self-regulatory organisations

21. A recognised self-regulatory organization shall submit to the Commission:

- (a) an annual supervisory plan with detailed information on the supervisory strategies, activities and resources allocated;

- (b) quarterly reports on progress made on the supervisory plan;
- (c) monthly reports on cases under investigation, enforcement and dismissals and penalties imposed;
- (d) quarterly financial information and annual audited financial statements;
- (e) information on any material changes to the data provided during the recognition process or at any other time as may be required by the Commission; and
- (f) such other information as the Commission may require.

## **PART V**

### **OVERSIGHT AND CONTINUING OBLIGATIONS OF RECOGNISED SELF-REGULATORY ORGANISATIONS**

Submission of by-laws, rules, policies, procedures, practices and interpretations

22. (1) A recognised self-regulatory organisation shall, in accordance with section 29 of the Act, submit for the Commission's approval its by-laws, rules, policies, procedures, practices and interpretations.

(2) The Commission shall only approve a recognised self-regulatory organisation's by-laws, rules, policies, procedures, practices and interpretations, if the Commission is satisfied that they –

- (a) are in the public interest and consistent with rules and practices for protection of investors as specified in the Act, Regulations and these Rules;
- (b) meet established market and professional practices and standards; and
- (c) effectively meet the regulatory requirements.

Action by  
Commission

23. (1) The Commission shall take appropriate action, if it is satisfied or has reason to suspect that –

- (a) a potential conflict of interest has or may arise, in that the members of the self-regulatory organisation are or seem to favor their interests over those of an investor or participant; or
- (b) the recognised self-regulatory organisation is not carrying out its delegated functions, is allowing its members to endanger customer funds or is engaging in conduct amounting to fraud, manipulation and other illegal activity.

(2) The Commission shall, where it reasonably believes or suspects that the events, specified in sub-rule (1), may or are occurring, inspect the recognised self-regulatory organisation and its offending members and evaluate how the self-regulatory organisation is performing its delegated functions and other responsibilities, and make an appropriate decision on the matter.

(3) A recognised self-regulatory organisation shall –

- (a) report, to the Commission, on an annual basis, the levels of compliance of itself and its members with its by-laws, rules, policies, procedures, practices and interpretations, the Act, Regulations and these Rules; and
- (b) provide special reports to the Commission, as the Commission may request, at any time.

(4) A recognised self-regulatory organisation shall be inspected or subjected to off-site periodic

reviews, monitoring and evaluation of compliance with its by-laws, rules, policies, procedures, practices and interpretations, the Act, Regulations and these Rules.

Take-over and support of self-regulatory organisation's investigations or delegated functions by Commission

24. (1) The Commission may take-over or support a recognised self-regulatory organisation's investigations or performance of its delegated functions on any particular matter or disciplinary case, as the case may be, if the Commission considers that the technical or financial capacity or independence of the recognised self-regulatory organisation are inadequate for the handling of the investigation, matter or disciplinary case.

(2) Notwithstanding a delegation of its functions to a self-regulatory organisation, the Commission retains full powers and authority to inquire into matters affecting the public interest and protection of investors.

Amendment, suspension or revocation of delegated functions and rules, etc

25. Subject to giving a self-regulatory organisation an opportunity to be heard, the Commission may amend, suspend or revoke the delegated powers of a recognised self-regulatory organization or its by-laws, rules, policies, procedures, practices and interpretations as needed to ensure investor protection and preservation of the public interest.

Submission of returns

26. A recognised self-regulatory organisation shall, within three months of the end of the financial year, submit annual returns, to the Commission, consisting of audited financial statements, reports on corporate governance and compliance with regulatory requirements as well as other returns as may be specified by the Commission.

Cooperation  
with  
Commission

27. A recognised self-regulatory organisation shall cooperate with the Commission and other recognised self-regulatory organisations in the investigation and enforcement of the Act and regulations and rules made in accordance with the Act.

*The Securities and Exchange Commission*

LUSAKA

, 2020

(SEC / /)

Consultations