



CAPITAL MARKETS AND SECURITIES AUTHORITY

GUIDELINES ON CONFLICTS OF INTEREST AND CONFIDENTIALIT Y

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1.0 INTRODUCTION

The Capital Markets and Securities Authority (CMSA) is responsible for promoting and setting high standards of conduct across the securities industry in Tanzania and therefore, the conduct of the members of the Authority and of its employees is likely to come under close scrutiny. It is not the policy of the CMSA to unreasonably restrict the investment activity of the members of the Authority and staff members, but certain restrictions are necessary in view of the CMSA's obligations as a matter of good business practice to put in place guidelines that will prevent actual or even an appearance or suspicion of conflict of interest. Although the members of the Authority and employees are entitled to manage their affairs in privacy, the regulatory work of the organization must be carried out in an environment which is free from any suggestion of improper conduct. Those providing information must be confident that the said information will be properly handled.

These guidelines are necessary to give Authority members and employees a framework within which to deal with conflicts of interest and other related matters. The guidelines are intended to protect members of the Authority, employees and the CMSA against any suggestions that regulatory decisions have been influenced by personal interests and that investment decision of members of the Authority or employees, are made by relying on information obtained by virtue of their employment and therefore their access to confidential non-public information.

Although these guidelines cannot be imposed upon persons not in the employment of the CMSA, members of the Authority and staff of the CMSA must recognize the potential for criticism if a related party as defined herein, is found to be benefiting as a result of information that is in the knowledge of Authority and staff members.

Members of the Authority and employees are reminded that under the Capital Markets and Securities Act, 1994 ("the Act") it is a criminal offence punishable by a fine or imprisonment or both, for a person who is or has been connected at any time in the six months preceding a specific transaction, with a body corporate if by reason of that connection, he/she is in possession of non public price sensitive information ("insider information") and he/she has used that information to deal in any securities of that body corporate.

Under S.112 (8) of the Act a person connected to a body corporate is defined to be natural person who:

- a) is an officer of that body corporate or of a related body corporate;
- b) is a substantial shareholder in that body corporate or in a related body corporate; or
- c) occupies a position that may reasonably be expected to give him access to insider information by virtue of any professional or business relationship existing between himself, (or his employer or body corporate of which he is an officer) and that body corporate or a related body corporate.

2.0 GENERAL PRINCIPLES

- 2.1 Members of the Authority and staff of the CMSA must not exploit or appear to exploit to their personal advantage any information to which they may become privy as a consequence of their employment.
- 2.2 Members of the Authority and staff members of the CMSA must not exploit or appear to exploit to their personal advantage any personal or professional relationships with a regulated organization.
- 2.3 A conflict of interest arises when an employee's or member of the Authority's work is affected or influenced by a personal interest or an expectation of personal gain in any matter relating to a regulated organization or other third parties dealing with the regulated organization. Members of the Authority and staff members of the CMSA should avoid circumstances where an independent third party might reasonably take the view that there is or there is likely to be a conflict of interest whether or not the Authority or staff member's work is affected or influenced by personal interest.
- 2.4 It is the responsibility of the Members of the Authority and CMSA staff members to ensure at all times that they do not find themselves in conflict of interest situations. Therefore members of the Authority and staff members must disclose to the Chief Executive Officer (CEO) any situation that is encountered which could give rise to a conflict of interest, whether or not it is permitted or not covered by these guidelines.
- 2.5 All information required to be disclosed by members of the Authority and employees under these guidelines shall be recorded by the Chief Executive Officer. The said information shall be treated at all times with the strictest confidence. However, it may become necessary, from time to time for the Chief Executive Officer to discuss aspects of concern with the

Director of Legal Affairs and Enforcement who will, where the information relates to an Authority member, notify the Chairman of the Authority of the said concerns. Such action as appropriate in the circumstances of each case as recommended by the CEO, shall be taken in such cases.

Caution:

Abuse of CMSA regulatory capacity and the misuse of information, whether in Tanzania or elsewhere, by members of the Authority and staff of CMSA, is prohibited and disciplinary action may be taken in such cases. Members of the Authority or employees who are uncertain of whether information they possess is insider information or whether they are in a conflict of interest situation, should contact the Chief Executive Officer for advice rather than rely on their own judgment or on advice from others.

3.0 DEFINITIONS

Authority Members: Shall have the meaning ascribed to it under S. 6 (3) of the CMS Act 1994;

Account: Any securities transactions, including single or multiple orders or instructions to a broker/dealer or an account maintained with a broker/dealer, in Tanzania or elsewhere, over which a member of the Authority or an employee may exercise any discretion or control whether such order or instruction or account is in such member's or an employee's name or with or through another person, company or nominee.

Dealing in Securities: For the purpose of these guidelines, includes subscribing, buying, selling or other means of holding and disposing of securities or procuring others to buy or sell or hold the securities.

Insider: Is, for the purposes of these guidelines , a person who as a result of his position or employment with CMSA or as a result of rendering a professional service or

otherwise, whether by virtue of a contract, consultancy or otherwise, becomes privy to specific information which has not been made public, relating to particular securities, which would have an effect on the price of that security if it were made public.

Public Information: Public information is information that is published or contained in records that are open for public inspection and can be readily acquired by those likely to deal in the securities or is derived from public sources.

Regulated Organization: Includes an individual or company licenced by CMSA, or a body corporate whose securities are listed on the Dar es Salaam Stock Exchange.

Related Party: A person is deemed to be a related party to an insider by reason of a domestic or business relationship if it can be reasonably said that the insider has influence over the related party's judgment as to how to invest either party's property or exercise any rights attaching to either party's investments. A person connected by reason of a domestic relationship shall include a spouse, cohabiters and children under 18 years.

Staff Members: All persons falling within the category of employees under the Staff Regulations and Code of Conduct of the CMSA.

4.0 POLICY ON EMPLOYEES' INTEREST

4.1.1 Application of Guidelines

These Guidelines shall apply to all persons for the time being members of the Authority and staff members of the CMSA and for avoidance of doubt, shall apply to all members of the Authority as defined by the CMS Act 1994 as well as all staff members of CMSA whether in a managerial or other position and whether such employment is permanent, temporary, contractual, probationary, short term or consultancy in nature.

4.2 Acknowledgement and Disclosure

- 4.2.1** All Members of the Authority and employees of the CMSA shall sign an Acknowledgement set out in Appendix 1 of these guidelines undertaking to comply with the provisions these guidelines. The signed acknowledgement is to be lodged with the Chief Executive Officer.
- 4.2.2** These guidelines shall form a part of the Staff Regulations and Conditions of Service applicable to all staff members of the CMSA. All members of the Authority and staff members shall be notified of these guidelines and they shall sign the acknowledgement set out in Appendix 1 of these guidelines.
- 4.2.3** Upon appointment, a Member of the Authority or staff member, should inform the Chief Executive Officer of all directorships held by him/her in Tanzania or elsewhere within the past five years, any post currently held or held within the last five years in a regulated organization and any other significant relationship including professional, personal or familial held in connection with a regulated organization.
- 4.2.4** All changes in the information disclosed in 4.2.3 above must be disclosed to the Chief Executive Officer and the Chief Executive Officer shall report to the Chairman.

5.0 SECURITIES TRANSACTIONS

- 5.1** These guidelines shall apply to dealing in securities for an account in all securities; which shall include shares, debt securities, warrants, options, futures and other derivatives including government securities.
- 5.2** No insider shall whether for an account, or on account of a related party, effect dealing in securities in respect of which he is an insider.

- 5.3 No insider shall procure or counsel any other person to enter into a transaction of dealing in securities where that insider is prohibited by these guidelines from dealing in those securities.
- 5.4 All members of the Authority and all employees who have accounts at the coming into force of these guidelines or joining employment thereafter, are required to disclose to the Chief Executive Officer all the details of the said accounts.
- 5.5 All members of the Authority and all employees of the CMSA having accounts or wishing to open accounts are required to sign an irrevocable standing order to the broker/dealer or bank with whom the account is maintained instructing the broker/dealer or bank to report all transactions on the account by sending copies of all confirmations and contract notes to the Chief Executive Officer who will inform the Chairman. It is the member's or employee's responsibility to ensure that the confirmations and contract notes are provided promptly.
- 5.6 Members of the Authority and employees of CMSA are free to participate in any dealing in securities whether for an account or for the account of a related party provided they notify the Chief Executive Officer not more than 7 days after the order or instructions are given to the broker/dealer or in the case of an IPO within 7 days after the success of the members or employees application.
- 5.7 The Chief Executive Officer shall keep an updated register containing details of all employees' and members of the Authority dealings in securities. The register shall be in the form set out in Appendix II.

6.0 GIFTS

As a general rule, acceptance of gifts by employees or members of the Authority is discouraged where it may put the employee or member of the Authority in a conflict of interest situation. Gifts other than of a token nature offered to an employee, shall be disclosed to the Chief Executive Officer.

- 6.1 For the purpose of this paragraph a token shall be deemed to be any gift which is less than 50,000 shillings in value.

7.0 DEFAULT

- 7.1 Any staff member, who is found in default of any provisions of these guidelines, such default not amounting to insider dealing in securities, shall be liable to such disciplinary action as provided under the Staff Regulations and Conditions of Service.
- 7.2 Any staff member, who is found to be in default of the provisions of these guidelines, such default amounting to insider dealing in securities, shall be liable to disciplinary action including dismissal.
- 7.3 Where a Member of the Authority is found to be in default of the provisions of these guidelines, such default shall be reported to the Authority by the Chairman. The Authority may, in any case reported to it, take appropriate action, including recommending to the Minister of Finance for the removal/termination of the said member from the membership of the Authority.

Dar es Salaam
....., 2002

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Chairman
Capital Markets and
Securities Authority

THE CAPITAL MARKETS AND SECURITIES AUTHORITY

ACKNOWLEDGEMENT TO ABIDE BY THE GUIDELINES ON CONFLICT OF INTEREST

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Designation

DO HEREBY agree to abide by the Guidelines on Conflict of Interest and Confidentiality set out by the CMSA. I understand that contravening the said Guidelines is a criminal offence punishable under Section 113 of the Capital Markets and Securities Act, 1994. I agree that I will ensure at all times that I do not find myself in conflict of interest situation and that I will disclose to the Chief Executive Officer any situation that I encounter which could give rise to a Conflict of Interest on my part. I further agree that, in respect of any information obtained or entrusted upon me by virtue of my being employed by CMSA, I will not-

- a) Use it for any purpose prejudicial to the safety or interest of the CMSA;
- b) Communicate it to any person other than a person to whom I am authorized to communicate;
- c) Conduct myself as to prejudice the interest of CMSA;
- d) Retain in my possession or under my control any note, document or article, when I have no right or when it is contrary to my duty so to do.

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Signature

