



# CAPITAL MARKETS HANDBOOK

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# **CAPITAL MARKETS AUTHORITY**



# CHAPTER ONE

## CAPITAL MARKETS AUTHORITY AND FINANCIAL INSTRUMENTS

The Capital Markets Authority (CMA) is an independent public agency under The National Treasury and Planning established by an Act of Parliament, the Capital Markets Act Cap 485A Laws of Kenya.

The Authority came into being on December 15, 1989 upon enactment of the Act and was later inaugurated in March 1990, with a dual mandate of regulating and facilitating the development of orderly, fair and efficient capital markets in Kenya.

# ROLE OF THE CAPITAL MARKETS AUTHORITY



**Licensing and supervising all the capital market intermediaries.**

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**Ensuring proper conduct of all licensed persons and market institutions**

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**Regulating the issuance of the capital market products (bonds, shares, ETFs, REITs) and market activities such as online forex trading.**

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**Promoting market development through research on new products and institutions.**

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**Promoting investor education and public awareness.**

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**Protecting investors' interest.**

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# KEY TYPES OF COMPANIES OR INSTITUTIONS LICENSED BY CMA

## Nairobi Securities Exchange (NSE)

The platform where your securities such as shares are traded



## Central Depository and Settlement Corporation (CDSC)

This is the provider of clearing and settlement of payment services among others in the Kenya capital markets.  
This is the bank for your shares



CENTRAL DEPOSITORY &  
SETTLEMENT CORPORATION  
*Invested in Progress*

## Stockbroker

A stockbroker is a market professional who buys and sells securities on behalf of investors at a Securities Exchange in return for a commission



# KEY TYPES OF COMPANIES OR INSTITUTIONS LICENSED BY CMA

## Investment Adviser

This is a market professional who undertakes analysis and research on capital markets securities and advises investors on such securities at a commission



## Investment Bank

This is a non-deposit taking institution that advise on offers of securities to the public or a section of the public, corporate financial restructuring, take-overs, mergers, privatization of companies, assisting with issuance of securities by companies, etc. They can also operate as a stockbroker.



## Fund Manager

This is a company that acts as a manager of your investments such as collective investment schemes.



# KEY TYPES OF COMPANIES OR INSTITUTIONS LICENSED BY CMA

## Authorized Depositories (Custodians)

This is a bank licensed by CMA to hold in custody funds, securities, financial instruments or documents of title to assets registered in the name of local investors.



## Non-Dealing Online Foreign Exchange Broker

These are firms that provide currency traders with access to an online trading platform and a method to make online currency exchanges and gain from currency fluctuations through contracts.



## Online Foreign Exchange Money Manager

Licensed to engage in the business of managing the online foreign exchange portfolio of an individual or institutional investor in return for a fee based on a percentage of assets under management.



# ROLE OF THE CAPITAL MARKETS IN THE ECONOMY

The capital markets are important component of the financial sector in achieving a robust and sustaining economic development in the following ways:



Provides an important alternative source of long-term finance for long-term productive investments.



Provides equity capital and infrastructure development capital that has strong socio-economic benefits



Provides avenues for investment opportunities that encourage a saving culture critical in increasing domestic savings and investment ratios



Encourages broader ownership of productive assets by small savers to enable them benefit from Kenya's economic growth and wealth distribution



Promotes public-private sector partnerships to encourage participation of the private sector in productive investments.



Assists the Government to close resource gap, and complement its effort in financing essential socioeconomic development

## INVESTMENT OPPORTUNITIES IN THE KENYAN CAPITAL

There are many products within the capital markets that a potential investor can consider. The products are classified into various categories



### EQUITY MARKET

- Ordinary Shares
- REITs

### Collective Investment Schemes

- Money Market Funds
- Equity Funds
- Fixed Income Funds
- Balanced Funds
- Special Funds
- Employee Share Ownership Plans

### DEBT MARKET

- Treasury Bonds
- Corporate Bonds
- Green Bonds
- Infrastructure Bonds

### Derivatives Market

- Online Foreign Exchange Trading



## SOME OF THE KEY PRODUCTS

### Shares

Represents ownership in a company. When a company lists its shares for sale to the public, investors are now able to purchase shares which represent fractional ownership. Investors can benefit if the price of the shares go up or through issuance of dividends paid to shareholders.

### Treasury Bonds

This is a loan investors provide to the Government and in return receive interest every 6 months until the complete principle is returned to the investor after the length of the loan

### Real Estate Investment Trust (REITs)

A REIT (Real Estate Investment Trust) is a company that makes investments in income-producing real estate. Investors who want to access real estate can, in turn, buy shares of a REIT and through that share ownership effectively add the real estate owned by the REIT to their investment portfolios.

#### ● Income Real Estate Investment Trusts (I-REITs)

This is a real estate investment trust that primarily derives its revenue from property rentals. It owns and manages income generating real estate for the benefit of its investors. leases.

#### ● Development Real Estate Investment Trust (D-REIT)

This is a real estate investment scheme where the proceeds of the REIT go towards development and construction of property for sale and/or rental.

## SOME OF THE KEY PRODUCTS

### Corporate Bonds

This is a loan investors provide corporations and receive interest payments until the maturity of the bond when the principle is returned. Investor can trade the bonds in the secondary market through the Nairobi Securities Exchange

### Treasury Bonds

This is a loan investors provide to the Government and in return receive interest every 6 months until the complete principle is returned to the investor after the length of the loan

### Treasury Bills

This is a money market and not capital markets since it is short term and less than a year. Treasury Bills are short-term borrowing instruments issued by the Government of Kenya through the Central Bank of Kenya (as a fiscal agent) to raise money on short-term basis usually for a period up to one year

### Collective Investment Schemes

Known as a formal Chama. Collective investment schemes are pools of funds that are managed on behalf of investors by a professional fund manager.

### Online Foreign Exchange Trading

Refers to internet-based trading of foreign exchange and includes trading in contracts for difference based on a foreign underlying asset.



## BENEFITS OF INVESTING IN THE CAPITAL MARKETS (SHARES, BONDS AND POOLED FUNDS)

**A**



**Shares (Ownership  
in a company)**

- Better returns
- Choices –variety of stocks
- Income
- Dividends from shares.
- Collateral when securing a loan
- Affordability
- Operating Convenience
- Ease of buying and selling
- Good investment to minimize risk against the rise of goods and services in an economy

**B**



**Bonds (Debt to a  
company or Govern-  
ment)**

- Provides safety of capital
- Structured form of payments
- Provide a high level of income
- They are a safe form of collateral

**D**



**Collective Investment  
Schemes (Pooled  
funds)**

- Invests in a variety of products to minimize risk and maximize returns
- Continuous Professional Management
- Access to a Broader Array of Assets
- Convenient record keeping and administration

A person in a dark blue suit is shown from the chest down, with their hands clasped together in a prayer-like gesture. Below their hands are four stacks of coins of increasing height, arranged on a light-colored surface. The background is a soft-focus office setting. The top right corner of the page features a white and orange geometric design.

# CHAPTER TWO

## INVESTOR PROTECTION

One of the core objectives of the Capital Markets Authority is to protect investors' interests and to operate a compensation fund to protect investors from financial loss arising from the failure of a licensed broker or dealer to meet his contractual obligations. This Chapter highlights the systems in place to enhance investor protection as well as tips on how an investor can protect him/herself within the capital markets industry.

# INTERNAL STRUCTURES THAT ENHANCE INVESTOR PROTECTION

## Education, Awareness and Certification unit

The Department creates awareness, educates and disseminates information to the public on various aspects of capital markets as well as investor protection. Awareness or certification queries can be directed to: [iepa@cma.or.ke](mailto:iepa@cma.or.ke)

## Licensing and approvals unit

The department ensures all market intermediaries meet the requirements prior to being licensed. Any licensing and approval matters can be directed to: [marketoperations@cma.or.ke](mailto:marketoperations@cma.or.ke)

## Market supervision unit

The department ensures continuous inspection of the licensed intermediaries for compliance with the regulations and guidelines. Issues relating to supervision can be directed to: [ms@cma.or.ke](mailto:ms@cma.or.ke); [marketoperations@cma.or.ke](mailto:marketoperations@cma.or.ke)

## Market surveillance unit

The department monitors daily trading at the exchange for purposes of identifying any suspicious trends. Issues relating to surveillance can be directed to: [ms@cma.or.ke](mailto:ms@cma.or.ke); [marketoperations@cma.or.ke](mailto:marketoperations@cma.or.ke)

## INTERNAL STRUCTURES THAT ENHANCE INVESTOR PROTECTION

### Investigation and enforcement unit

The department investigates and takes enforcement actions against market violations. Investigations and enforcement matters can be directed to: [ie@cma.or.ke](mailto:ie@cma.or.ke)

### Policy and Regulatory Framework

The department formulates regulations within the capital markets industry. Any regulatory and policy queries can be directed to: [legal@cma.or.ke](mailto:legal@cma.or.ke); [research@cma.or.ke](mailto:research@cma.or.ke)

### Integrity Committee

The Committee ensures upholding of professionalism, integrity, transparency and fairness by the Authority staff. Any integrity issues can be directed to: [integrity@cma.or.ke](mailto:integrity@cma.or.ke)

### Capital Markets Fraud Investigations Unit

The Unit was established with a view of consolidating the investigations of all securities related fraud cases under one roof. Fraud matters can be directed to: [cmfiu@cma.or.ke](mailto:cmfiu@cma.or.ke)

### Investor Compensation Fund

The fund was established for purposes of granting compensation to investors who suffer pecuniary loss resulting from the failure of a licensed stockbroker or dealer, to meet his contractual obligations

Investor compensation matters can be directed to [ceoffice2@cma.or.ke](mailto:ceoffice2@cma.or.ke)

# Capital Markets Fraud Defined

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Capital markets fraud is misrepresentation of information to investors of capital markets products which is the basis of their decision making and often, leads to losses for investors. In a capital markets context, fraud can manifest in ways not limited to: Fraudulent sale of client shares; insider trading; market manipulation; stealing of client funds; and manipulation of client records among other offences.

## Functions of the Capital Markets Fraud Investigation Unit

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- 1 Detection, prevention and apprehension of offenders perpetrating fraud within the securities market.
- 2 Collection, analysis and dissemination of relevant criminal intelligence, within the market.
- 3 Investigation and prosecution of detected/reported cases relating to the securities market.
- 4 Act as liaison unit between the Authority and other investigative agencies.
- 5 Co-ordinates with the Authority's Investigation and Enforcement Department whereby it takes up matters which have a criminal aspect for investigation and prosecution whilst the Authority's Investigation & Enforcement Department pursues compliance with the Capital Markets Regulatory framework.
- 6 Assist members of the public in the spirit of "**Utumishi Kwa Wote**" on relevant capital market issues.

# COMPLAINTS REPORTING CHANNELS

As part of its objective of ensuring investor protection, the Authority ensures that investors' complaints against market intermediaries are adequately addressed. Where an investor is aggrieved by any licensed or approved person falling under the regulatory jurisdiction of the Authority, such investor is urged to first seek resolution from the said licensed or approved person. However, if the investor remains unsatisfied, the complaint should immediately be escalated to the Nairobi Securities Exchange (NSE) or Capital Markets Authority (CMA)

## Walk-in



Any person is welcome to visit the offices of the Authority, at Embankment Plaza, 3rd Floor, Longonot Road, Upper hill, Nairobi, Kenya, during weekdays from 8.00–5.00 pm to report any capital markets related issues and/or make enquiries.

## Telephone



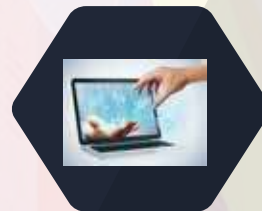
Telephone calls can be made through the following Authority's telephone numbers: +254-20-2264900, 2221910, 2226225, 0722207767, 0734651550.

## Emails



Complaints can be sent via email to any of the following email addresses: [ceoffice@cma.or.ke](mailto:ceoffice@cma.or.ke); [ceoffice2@cma.or.ke](mailto:ceoffice2@cma.or.ke); [corporate@cma.or.ke](mailto:corporate@cma.or.ke); [iepa@cma.or.ke](mailto:iepa@cma.or.ke); [cmfiu@cma.or.ke](mailto:cmfiu@cma.or.ke); [investigations@cma.or.ke](mailto:investigations@cma.or.ke);

## Online Complaint Portal



The portal is on the Authority's website ([www.cma.or.ke](http://www.cma.or.ke)) online services section and it is a one-stop point of reference through which investors can have their complaints received and addressed. Once in the section, click on the icon for 'Lodge Complaint' or 'Send Tip-off' and follow the prompts till the end. Use the link below to access the online complaints portal:

<https://portal.cma.or.ke/complaints/>

# COMPLAINTS REPORTING CHANNELS

## CMA Corruption reporting

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Any person is welcome to report any corruption cases through any preferred channel or send an email to: [integrity@cma.or.ke](mailto:integrity@cma.or.ke) or through the EACC Website <https://eacc.go.ke/default>

## HOW AN INVESTOR CAN PROTECT HIMSELF/HERSELF

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Despite all the efforts by the Capital Markets Authority and key industry stakeholders in enhancing investor protection, the investor also has a part to play in order to complement these efforts. Towards this end, all investors are encouraged to take the following measures that enhance investor protection:

### Conducting financial self-examination

Analyze your financial objectives, your income sources, constraints and risk tolerance.

### Take Control of your Trading Account

Ensure that your stockbroker/investment bank does not trade in your account without your knowledge

### Deal only with licensed Entities

Identify your financial investment advisor and open an account with them. Any firm advising you on investment must be a licensee of CMA.

### Conduct due diligence

Before investing, conduct due diligence with agencies.

### Open a CDS account

Facilitates holding of securities in electronic accounts opened by shareholders.

### Subscribe to CDSC alert services

All investors are encouraged to register for CDSC'S SMS, Email and web services.





# CHAPTER THREE

## LICENCEES AND POTENTIAL LICENCEES GUIDE

THE MAIN CAPITAL MARKETS PLAYERS IN THE KENYAN  
CAPITAL MARKET AND LICENSING REQUIREMENTS

# THE MAIN CAPITAL MARKETS PLAYERS IN THE KENYAN CAPITAL MARKET AND LICENSING REQUIREMENTS

## Securities Exchange

Refers to markets, derivatives exchange, securities organization or another place at which securities are offered for sale, purchase or exchanged, including any clearing or settlement with or without innovation or transfer services connected therewith. Requirements are:

- Rules, Memorandum and Articles of association of the applicant company (the objectives of the company shall restrict it to business of operating as a securities exchange and services incidental thereto;
- Details of the trading system proposed to be adopted by the Applicant;
- Prescribed fee;
- Any other documents as may be prescribed by the Authority.

## Central (Securities) Depository

Requirements are;

- A company incorporated under the Companies Act with the objective of operating as a central depository;
- The application shall be accompanied by CDS Rules made in such a manner as the Authority may prescribe, prescribed fee and any other requirement as may be prescribed by the Authority.

## Clearing Member

- This is a sub-category of market participant of the Nairobi Securities Exchange (NSE), registered to perform clearing in the derivatives market and who has entered into a clearing house agreement with the clearing house. A clearing house means the Nairobi Securities Exchange or its wholly owned subsidiary designated and appointed by the NSE for purposes of clearing contracts on the NSE in accordance with the prescribed rules.



## Commodities Exchange

Means an exchange licenced by the Authority to undertake spot commodity trading, and includes any clearing or settlement or transfer services connected with the transaction; Requirements are;

- Copies of memorandum and articles of association;
- Rules governing the operations of the commodities exchange;
- Details of trading, clearing and settlement systems proposed to be adopted by the applicant;
- The application fees set out in the Second Schedule;
- Satisfactory bank references;
- A business feasibility plan evaluated by an entity with a proven track record and expertise in commodity markets or commodity market development, establishment, or management; and
- Any additional documents as the Authority may require.

## Derivatives Exchange

Refers to a securities exchange which has been granted a license to list exchange traded derivatives contracts. Requirements are;

- Copies of memorandum and articles of association and rules governing the operations of the exchange, which are in a form satisfactory to the Authority; and restrict the applicant to the business of operating a derivatives market and services incidental thereto;
- Details of trading, clearing and settlement systems proposed to be adopted by the applicant;
- The prescribed licensing fees set out in the Second Schedule;
- Satisfactory bank references;
- A business feasibility plan evaluated by an entity with a proven track record and expertise in derivatives or derivatives market development, establishment or management; and
- Such additional documents as the Authority may require.



## Derivatives Broker



A corporate body admitted to the membership of a derivatives exchange and by the Authority to engage in the business of trading in derivatives contracts as an agent for investors in return for a commission and on its own account. Requirements are;

- Certificate of Incorporation and Memorandum and Articles of Association (must be incorporated as a company);
- Have a chief executive who is a fit and proper person as described under section 24A of the Act and who has experience of not less than five years in the business of buying, selling or dealing in commodities, commodity derivatives contracts or other securities;
- Have the necessary infrastructure including office space, equipment and trained staff to effectively discharge its activities;
- Have as its directors and key personnel, persons who are fit and proper as described under section 24A of the Act;
- Have a minimum net capital and minimum net worth as determined by the derivatives exchange and approved by the Authority from time to time.



## Stockbroker

A stockbroker is a market professional who buys and sells securities on behalf of clients at a Securities Exchange in return for a brokerage commission. Requirements are;

- Certificate of Incorporation and Memorandum and Articles of Association (must be incorporated as a company);
- A detailed business plan;
- Evidence of paid up share capital of a minimum of fifty (50) million shillings;
- Lodgment of a security of Kshs 1.5 million or such higher amount with a securities exchange or a central depository (or such other amount as the Authority may determine, considering the financial position and settlement record of the applicant) or provide a guarantee in a form acceptable to the Authority from a bank;
- The level of shareholders' funds shall not be below fifty (50) million at any time during the license period;
- The minimum paid up share capital shall be unimpaired and shall not be advanced to directors or associates of the stockbroker;
- The working capital shall not be below 20% of the prescribed minimum shareholders' funds;
- Unsecured advances, loans and other amounts to directors or associates shall in aggregate not exceed 10% of prescribed shareholders' funds at any time;
- The ratio of the stockbroker's bank overdraft to the paid capital shall always not exceed 20%.



## Stock Dealer

A stock dealer is a person who carries on the business of buying, selling, dealing, trading, underwriting or retailing securities as a principal (i.e. on his own behalf). Requirements are;



- Certificate of Incorporation and Memorandum and Articles of Association (must be incorporated as a company);
- A detailed business plan;
- Un-audited accounts for the period of the account year ending not earlier than six months prior to the date of application and audited accounts for the preceding two years (where applicable);
- Lodgment of a security of Kshs 1.5 million with a Securities Exchange or a Central Depository (or such other amount as the Authority may determine, taking into account the financial position and settlement record of the applicant) or provide a guarantee in a form acceptable to the Authority from a bank;
- Must be an institution willing to commit funds for investment as principal in securities dealings;
- Paid up share capital of not less than Kshs 20 million;
- Set aside investment capital of not less than Kshs 20 million in cash or portfolio of listed securities (except where a dealer is promoted by a stockbroker through a subsidiary where the minimum investment capital is Kshs 5 million);
- The working capital shall not be below 20% of the prescribed minimum shareholders' funds (paid up capital and reserves);
- Dealer's borrowings, except bank overdrafts, shall be for the purpose of investment in securities and such borrowings shall not exceed 40% of the shareholders' funds or market value of the listed securities whichever is higher;
- Unsecured advances, loans and other amounts to directors or associates shall be made from shareholders' funds which are in excess of the prescribed minimum provided that such loans shall not exceed 10% of the shareholders' funds;
- The ratio of the dealer's bank overdraft to the paid-up capital shall always not exceed 20%.



## Investment Adviser

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A market professional who undertakes analysis and research on capital markets securities and advises investors on such securities at a commission. Requirements are;



- Certificate of Incorporation and Memorandum and Articles of Association (must be incorporated as a company);
- A detailed business plan;
- Paid up share capital of not less than Kshs 2.5 million;
- The level of shareholders' funds shall not be below Kshs 2.5 million at any time during the license period;
- The minimum paid up share capital shall be unimpaired and shall not be advanced to directors or associates of the investment adviser;
- The working capital of an investment adviser shall not be below 20% of the prescribed minimum shareholders' funds;
- Unsecured advances, loans and other amounts to directors or associates shall in aggregate not exceed 10% of prescribed shareholders' funds at any time;
- The ratio of the investment adviser's bank overdraft to the paid capital shall not exceed 20% at any time;
- The aggregate maximum value of all clients' portfolio managed under the investment adviser's license as prescribed shall not exceed Kshs 10 million.







## Fund Manager




A fund manager refers to a manager of a collective investment scheme, registered venture or capital company. Requirements are;

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- Certificate of Incorporation and Memorandum and Articles of Association (must be incorporated as a company);
  - A detailed business plan;
  - Paid up share capital of not Kshs 10 million at any time during the license period;
  - The minimum paid up share capital shall be unimpaired and shall not be advanced to directors or associates;
  - The working capital shall not be below 20% of the prescribed minimum shareholders' funds;
  - Unsecured advances, loans and other amounts to directors or associates shall in aggregate not exceed 10% of prescribed shareholders' funds at any time;
  - The ratio of bank overdraft to the paid capital shall not exceed 20% at any time;
  - The aggregate maximum value of all clients' portfolio managed shall be amount exceeding Kshs. 10 million

## Authorized Securities Dealer



This is a bank licensed under the Banking Act or a financial institution approved by the Authority to deal in fixed-income securities listed on the Fixed Income Securities Market Segment (FISMS) at a securities exchange. Authorized Securities Dealers are also required to act as market makers and dealers in this market segment; facilitate deepening of the fixed income securities market; enhance trading and liquidity in the fixed income securities market; and minimize counter party risk. Requirements are;

- 
- Certificate of incorporation and Memorandum and Articles of Association (must be incorporated as a company);
  - A detailed business plan;
  - Commitment to invest a minimum of Kshs 200 million in FISMS turned over every 6 months either on sale or purchase;
  - Trade and dealing only in minimum lots of Kshs 5 million. Any trades below this amount shall be transacted through stockbrokers.



## Investment Bank

This is a non-deposit taking institutions that advise on offers of securities to the public or a section of the public, corporate financial restructuring, take-overs, mergers, privatization of companies, underwriting of securities, etc. The investment banks can also engage in the business of a stockbroker, a dealer, and a fund manager of collective investment schemes and provider of contractual portfolio management services; Requirements are;

- Certificate of Incorporation and Memorandum and Articles of Association (must be incorporated as a company);
- Statement of un-audited accounts for the period of the accounting year ending not earlier than six months prior to the date of application and the applicant's audited accounts for the preceding two years (where applicable);
- A detailed business plan;
- Paid up share capital of not less than Kshs 250million;
- The level of shareholders' funds shall not be below Kshs 250million at any time during the license period;
- Maintain a liquid capital of thirty million or eight percent of its total liabilities whichever is higher;
- The minimum paid up share capital shall be unimpaired and shall not be advanced to directors or associates of the Investment Bank.

## Credit Rating Agency

A professional whose role is to give an objective and independent opinion on the general creditworthiness of an issuer of a debt instrument, and its ability to meet its obligations in a timely manner over the life of the financial instrument based on relevant risk factors including the ability of the issuer to generate cash in the future. Requirements are;

- Evidence of capacity to perform the role of a rating agency;
- Have a background and experience as well as professional expertise to provide the service of a rating agency;
- Demonstrate its independence, objectivity, and demonstrate a proven rating methodology;
- Must be a body corporate with a preponderance of an institutional shareholding of repute and its shareholders, board of directors, management and professional analytical staff should be persons of impeccable character;
- Should partly be owned by an internationally recognized rating agency or have a contractual arrangement with an internationally recognized rating agency that provides technical and strategic support drawn from international experience;
- The applicant shall have a stable financial base with a minimum paid up capital of Kshs 12 million.



## Commodities Broker

Means a company cleared by the exchange and licenced by the Authority to carry on the business of purchase or sale of commodities contracts as an agent for investors or on its own account Requirements are;

- Be a company limited by shares;
- Have a chief executive officer who is a fit and proper person as described under section 24A of the Act and who has experience of not less than five years in the business of buying, selling or dealing in commodities, spot commodity contracts, derivatives contracts, or other securities;
- Have the necessary infrastructure including office space, equipment, and trained staff to effectively discharge its activities;
- Have as its directors and key personnel, persons who are fit and proper as described under section 24A of the Act; and
- Have a minimum net capital and minimum net worth as determined by a commodity exchange and approved by the Authority from time to time.

## Collective Investment Scheme

This is a scheme constituted as a company, a trust, or any other legal entity prescribed or approved by the Authority. It is a specialized market players licensed to mobilize savings in financial assets and to enhance access to capital markets by small investors. Requirements are;

- Draft incorporation documents of the collective investment scheme; memorandum and articles of association of the promoter; memorandum and articles of association of the proposed fund manager;
- A business plan;
- One bank reference and two professional or business references;
- Appointment of a trustee which should be a bank or financial institution approved for that purpose by the Authority;
- Appointment of a custodian which should be a bank or financial institution approved for that purpose by the Authority;
- A collective investment scheme set up as an investment company must raise a minimum of Kshs 25 million;
- An investment company will be registered as a collective investment scheme upon providing proof that it has raised the minimum amount of Kshs 25 million.



## Authorized Depository (Custodian)



This is a bank licensed under the Banking Act or a financial institution approved by the Authority to hold in custody funds, securities, financial instruments or documents of title to assets registered in the name of local investors, East African investors, or foreign investors or of an investment portfolio. Every investment adviser and fund manager that manages discretionary funds shall appoint a custodian for the assets of the fund. Requirements are;

- Must be licensed to operate as a bank under the Banking Act or as a financial institution or an authorized depository;
- A custodian shall not contract agents to discharge its functions except where a portion of the portfolio is invested in offshore investments (need to engage an overseas sub-custodian);
- Custodian shall render custodial services to the investment portfolio in accordance with the written service agreement between the custodian and the investment adviser or fund manager.



## REIT Trustee

The Trustee is responsible under the Trust Deed for the safe custody of the assets for the benefit of the Unitholders as a whole and oversees the activities of the REIT Manager for compliance with the Trust Deed and regulatory requirements. Requirements are;

- A Certificate of incorporation;
- Memorandum and articles of association;
- A business plan;
- Statement of the unaudited accounts for the period of the accounting year ending not earlier than six months prior to the date of application and the applicant's audited accounts for the preceding two years, or, in the case of entities which, at the time of application, have been in existence for less than six months from the date of their incorporation, submit an opening balance sheet and an auditor's certification of the share capital of the company.

## REIT Manager

A REIT manager is a company incorporated in Kenya and licensed by the Authority to provide real estate management services in respect of a REIT. Requirements are;

- Certificate of Incorporation and Memorandum and Articles of Association (must be incorporated as a company);
- A detailed business plan;
- Paid up share capital of not Kshs 10 million at any time during the license period;
- The minimum paid up share capital shall be unimpaired and shall not be advanced to directors or associates;
- The working capital shall not be below 20% of the prescribed minimum shareholders' funds.



## Online Foreign Exchange Broker and Money Manager



A Dealing Online Foreign Exchange Broker is an entity licensed by the Authority to engage in the business of online foreign exchange trading as principal and market maker while a Non-Dealing Online Foreign Exchange Broker is an entity licensed by the Authority that acts as a link between the foreign exchange market and a client in return for a commission or mark-up in spreads and does not engage in market making activities.

Money Manager is an entity licensed by the Authority to engage in the business of managing the online foreign exchange portfolio of an individual or institutional investor in return for a fee based on a percentage of assets under management.

Requirements are;

- In the case of an application for a dealing online foreign exchange broker or a non-dealing online foreign exchange broker license, a letter from a recognized online foreign exchange trading platform stating that the applicant meets all the relevant requirements of that platform and that the platform will admit the applicant if licensed by the Authority;
- In the case of a money manager, an agreement with an online foreign exchange broker who is licensed by the Authority;
- Client on-boarding policies;
- Business plans;
- Individual risk assessments;
- Anti-Money Laundering and know your client checks;
- Product sensitization framework including client appropriateness assessment;
- Internal dispute resolution mechanisms to be adopted to resolve customer complaints and disputes;
- All relevant service level agreements with other online foreign exchange market service providers, where applicable; and
- The fees as set out by the Authority from time to time.

# LICENSE APPLICATION PROCEDURE S

## Licensing

Application and renewal of all licenses to carry out an activity regulated under the Capital Markets Act.

## Approvals

Application for approval of public offers and listing of securities on any securities exchange in Kenya, take-overs and mergers and private transfer of securities.

## Reporting Obligations

Filing of all reporting obligations (returns) by licensed entities and issuers of securities.

## No Objection Requests

Application for no objections by licensed entities and issuers of securities including changes in shareholding, composition of the board among other material changes.

## Updating details

Keeping your details held with the Authority up to date, including addresses and contacts.



Applicants should submit their applications to the Authority via the 'Online Application Portal' which can be accessed via <https://portal.cma.or.ke/>

# CHAPTER FOUR

## UNDERSTANDING THE COLLECTIVE INVESTMENT SCHEMES (CIS)

Collective Investment Schemes (CISs) offer a pool of diversified investment options for all levels of investors in the Kenyan economy and are a solution to achieving wide investment diversification without the need of prohibitive sums of money.

# TYPES OF COLLECTIVE INVESTMENT SCHEMES

## **A Unit Trust**

An arrangement whereby investors' funds are pooled together and used to invest in a portfolio of securities and other financial assets, with the beneficial interest in the assets of the trust divided into units.

## **Employee Share Ownership Plan (ESOP)**

An employee benefit plan that gives workers ownership interest in the company. ESOPs give the sponsoring company, the selling shareholder, and participants various tax benefits, making them qualified plans.

## **Special Interest Collective Investment Scheme**

A CIS established by a promoter for the purposes of facilitating investment by a special group of individuals with a common interest in a listed company, and may include farmers, distributors, suppliers, among others.

## **A Mutual Fund**

A mutual fund is a public or external company incorporated solely to hold and manage securities or other financial assets.



# Main parties involved in the organization and operation of a CIS

## The Fund Manager

A CIS must appoint in writing a fund manager who has been approved by CMA. The Fund Manager will carry out the administration of the fund including the management of the whole investment in accordance with the direction of the trustees or the board of directors and the trust deed or other guiding document. Some of the principal duties of a fund manager include:

- Advising the trustee or board of directors on the asset's classes, which are available for investment;
- Formulating investment policy;
- Investing the scheme's assets in accordance with the scheme's investment policy;
- Ensuring pricing of units is in accordance with CIS rules;
- Reinvesting any income of the scheme fund which is not required for immediate payments;
- Purchasing at the request of a holder any units held by such holder on the terms and at a price calculated in accordance with the CIS rules;
- Should not sell units other than on the terms and at a price calculated in accordance with the rules of CIS;
- Publishing daily the price of units in at least two daily newspapers of national circulation, in English.

## The Custodian

- It is a company appointed by the CIS to keep custody of all the securities owned by the Scheme. The custodian must either be a bank or a financial institution and must be approved by CMA.

## The Trustee

- Every CIS is required to appoint a trustee and such trustee must be approved by CMA. A trustee must be either a bank or financial institution. The trustee must ensure that the custodian takes into custody all the CIS assets and the CIS is well managed by the fund manager as per agreement of service.



## **The Net Asset Value (NAV) of a Fund (Valuation)**

NAV of the Fund is the market value of all the assets of the Fund subtracting the Liabilities. NAV reflects the Funds that will be available to the shareholders if the Fund is liquidated and all the liabilities are paid. In the Mutual/Unit Trust Fund industry NAV refers to Net Asset Value per unit holder, which is NAV of the Fund divided by the outstanding number of units. It shows the performance of the Fund. The fund manager shall value the fund at the end of each business day.

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Under CIS, this refers to a legal document governing the establishment of a unit trust or mutual fund and includes every instrument that affects the powers or functions of the trustee or manager of the unit trust or mutual fund.

## **Trust Deed**

# THE BENEFITS OF COLLECTIVE INVESTMENT SCHEMES TO AN INVESTOR

1

## Continuous professional management of the Investments

CISs are managed by experienced professionals with skills and resources to research different investment opportunities.

2

## Low costs of Investment

Due to the large amount of funds that the Fund manager manages, very low costs accrue per investor. The Fund achieves economies of scale in research, transactions and investments. It lowers the cost of brokerage, custodial and other charges.

3

## Spreading of Risk

Investors in Unit Trusts can access a broader range of securities than they would when investing on their own. A common investor has limited money, which he can invest only in a few securities, and faces a great risk, but when pooled with other investors' funds, it could be spread out over other companies. The loss made by a few counters can be absorbed by the gain made in other counters. The risk is therefore reduced, and the investor can further reduce risk by investing in several funds.

4

## Convenient record keeping and administration

Fund managers take care of all the record keeping and deal with the problem of bad deliveries, broker's commission etc.

5

## Various types of Schemes

CIS offer various types of schemes such as regular income plan, growth plan, equity Funds, debt Funds, and balanced Funds. An investor can therefore select a plan according to his needs.

6

## Liquidity

There is an ease in selling and buying the units compared with investing directly to the market where prices and opportunities to transact depends on the supply and demand at that time.

## Continuous professional management of the Investments

7

CISs are managed by experienced professionals with skills and resources to research different investment opportunities.

## Access to a broader array of financial assets

8

Unit Trust Fund Managers can trade in investment products that may be inaccessible to the individual investor, such as government bond and corporate bonds due to a high minimum threshold of investment. Some of these products are traded in large amount, which limits the individual investor even when he has the opportunity.

## Tax Benefits

9

The CIS income is tax exempt, and this can be extended to unit holders in form of better returns.

## Hedge Against Inflation

10

Securities prices over the long term tend to outperform inflation, therefore investment in securities can be a reliable hedge against inflation in the long term.

## Operating Convenience

11

No personal commitment of the investor is required for the investment to give a return.

# Categories of Funds

Unit Trust Funds typically have a predetermined investment strategy in order to meet the investment objective of the funds. A management company may invest in different types of instruments to achieve the fund's objectives. It is important to understand the risk associated with the instruments that the management companies invest in, as it depicts the overall risk of the fund. The following are the main category of funds currently available in the market:

01

Equity Fund: Invest primarily in listed equities.

02

Fixed Income Fund: Invest primarily in government securities such as treasury bonds and corporate bonds.

03

Money Market Fund: Invest primarily in short-term instruments such as treasury bills, fixed deposits etc.

04

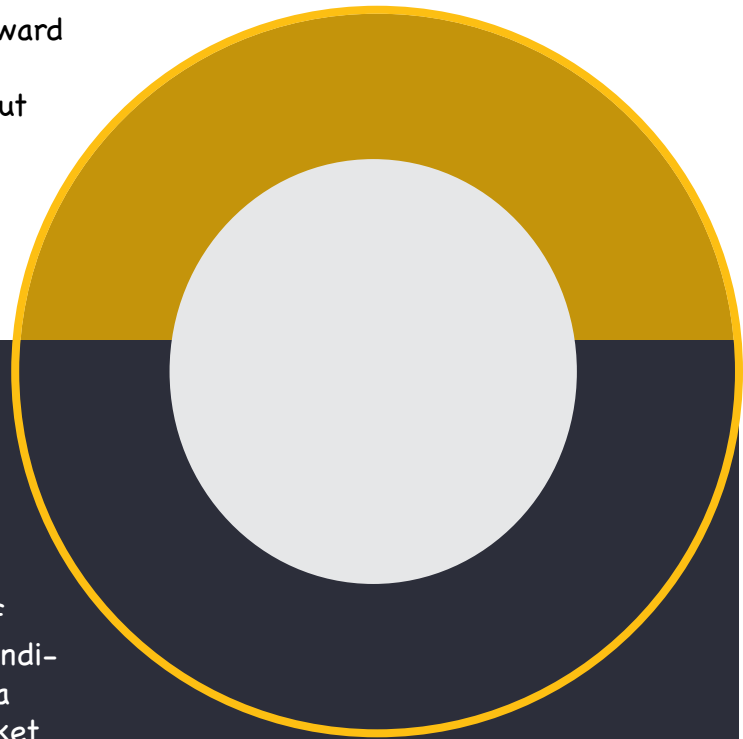
Balanced Fund: Invest primarily in a balanced mix of both equity and fixed income instruments..

# UNDERSTANDING THE RISKS OF INVESTING IN CISOs

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A fundamental principle of investment is the risk reward trade-off associated with every instrument decision made. The higher the risk, the greater the return but the reverse is also true. There are generally, three basic types of investment risk:

- General market risk that relates to a broad range of investments and is largely dependent on economic conditions and international markets. This form of risk is a tough one to control, short of opting out of the market totally.
- Market sector risk that relates to a sector of a market, for example finance stocks will perform better than plantation stocks at a period. This form of risk can be managed by carefully monitoring the economic scene with a view to identifying the winners and losers.
- Specific risk that relates to the performance of a particular security or property in an investment portfolio for example, the performance of a specific company's share. The specific risk that one investment will not perform, over another can be minimized by carefully investigating and researching before buying and by performing regular ongoing checks.



# INVESTING WISELY IN A CIS

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Each investor has different goals, needs and constraints. Yet there are several general rules that every investor should follow for his or her protection.

- As with all other investments, understand your individual risk appetite, investment objectives and buffer capital before selecting a CIS vehicle.
- Read the prospectus carefully. Make sure you understand where and how your money is to be invested and the risks involved. You should be aware of how a Unit Trust works, the charges and the fees involved and your rights as a unit holder.
- Make sure that you deal only with collective investment schemes licensed by the Capital Markets Authority. By so doing will help the Authority assist you in case of a problem.
- Do not rush into a decision. Take time before deciding whether to invest in the units.
- Keep good records of your investments and check any statements or certificates you receive to make sure they are correct.
- Assess any specific features and constraints which may conflict your needs/preferences. Some funds may have a policy of not distributing dividends, higher minimum investment than what you may want to invest, inconvenient procedures for buying and selling of units in the fund.
- Look for good and consistent performance of the longer term. However, be warned that past success is no guarantee of good future performance.



# CHAPTER FIVE

## PUBLIC OFFERS AND LISTING OF SECURITIES

This Chapter highlights requirements for the offer of securities to the public, eligibility requirements to be listed at a securities exchange and the continuous reporting and disclosure requirements.

# CAPITAL MARKETS REQUIREMENTS FOR ALL OFFERS AND LISTING OF SECURITIES TO THE PUBLIC IN KENYA

1

## Public Offer of Shares

To issue shares to the public, the following information needs to be disclosed in the offer documents commonly referred to as Prospectus or Information Memorandum:

- Key information about the Issuer of securities.
- Names and addresses of the issuer's External auditors for the last three years.
- Name and address of the issuer's bankers, legal advisors, sponsoring brokers, reporting accountants, registrar and any other expert involved in the issue.

2

## Public Offer of Fixed Income Securities

To issue fixed income securities (Bonds, commercial paper, notes etc.) to the public, the following information needs to be disclosed to all stakeholders:

- Background information of the directors of the issue.
- Names and addresses of the issuer's external auditors for the last three years.
- Name and address of the issuer's bankers, legal advisors, sponsors, note trustee, registrar and fiscal agents, receiving bank and paying agents, media and public agent relations (if any), reporting accountants and any other expert involved.

# CAPITAL MARKETS REQUIREMENTS FOR ALL OFFERS AND LISTING OF SECURITIES TO THE PUBLIC IN KENYA

## Eligibility Requirements for Listing at The Nairobi Securities Exchange

There are six investment market segments boards at the Nairobi Securities Exchange namely:

- Main Investment Market Segment (MIMS);
- Alternative Investment Market Segment (AIMS);
- Real Estate Investment Segment;
- Exchange Traded Fund Segment;
- Fixed Income Securities Market Segment (FISMS); and
- Growth Enterprise Market Segment (GEMS) – This is a market segment set up for growth of small and medium sized firms (SMEs) to raise substantial initial and continuous capital, while benefiting from increased profile and liquidity within a regulated environment designed specifically to meet the SMEs' needs. A highlight of key eligibility requirements for listing on the GEMS are:

3

- The issuer to be listed shall be a public company limited by shares and registered under the Companies Act (Cap. 486 of the Laws of Kenya).
- The issuer shall have a minimum authorized and fully paid up ordinary share capital of ten million shillings.
- The issuer must have not less than one hundred thousand shares in issue.
- Shares to be listed shall be freely transferable and not subject to any restrictions on marketability or any pre-emptive rights.

To list securities on any of the above boards, the following general eligibility criteria must be satisfied:

- Incorporation status
- Minimum share capital and Net Assets
- Free transferability of shares
- Availability and reliability of financial records
- Competence and suitability of directors and management
- Dividend policy
- Track record, profitability and future prospects
- Solvency and adequacy of working capital
- Share ownership structure
- Certificate of comfort (if the Issuer is regulated by any other regulator)

## General Continuing Reporting Obligations

Every Issuer whose securities have been offered to the public shall comply with the continuing obligations specified in the Fifth Schedule of the Capital Markets public offer regulations with respect to the relevant market segment.



### Change in activities

Major developments in an issuer's nature of activities or expectation of performance that may have effect on the financial position or general course of business that in turn may impact substantially on the prices of its securities should be disclosed.

- Where it is proposed to announce such information in a meeting of holders' of an issuer's listed security, it should be published to the securities exchange and the market so that the announcement at the meeting comes after it has been published to the market and forwarded to the Capital Markets Authority.
- An issuer must publish, by way of cautionary announcement, information, which could lead to material movement in prices of its securities if confidentiality levels required could not be maintained.
- Where an issuer's securities are listed on various securities exchanges, such an issuer should ensure that equivalent information is available at the same time to the market at all such securities exchanges.

### Information in strict confidence

An issuer may give such information to its advisers and persons with whom it is negotiating with a view to finalizing a transaction or raising finance. In such case an issuer must advise, preferably in writing, the recipients of such information that it's confidential.





## Disclosure of Periodic Financial Information

### Dividend and Interest

Payment should be notified to the Nairobi Securities Exchange, Capital Markets Authority and the securities' holders within twenty-four hours following the board's resolution/recommendation by means of a press announcement. Such resolution / recommendation is required to be at least 21 days prior to book closure date and should state:

- The closing date for determining entitlements;
- Payment date of dividend/interest;
- The cash amount to be paid for dividend/interest
- Where shareholders decline to approve a recommended dividend at an annual general meeting, the board should make an announcement through a notice within 24 hours following the annual general meeting.
- Interim dividends declared by an issuer should be paid within 90 days of the date of books closure and 90 days of the date of approval by shareholders in the case of final dividend.

Intention not to pay dividend should be disclosed in the interim or annual audited financial statement or by way of a press announcement.


### Financial Reports

Quarterly Financial reports (covering 3 months), Interim reports (half year) and Annual Financial Statements (Final reports) must be submitted to the Authority as prescribed in the regulations and should be prepared in full compliance with the International Financial Reporting Standards (IFRS).

Every issuer should notify the Nairobi Securities Exchange, the Capital Markets Authority and media of its annual results within 24 hours following approval of the issuer's board of directors.

Every issuer is required within six months after the financial year end, but at least 21 clear days before the annual general meeting date to distribute to all securities' holders:

- A notice of the annual general meeting and the relevant year's annual financial statements.
- The auditor's report on the issuer's financial statements.



# Disclosure of Periodic Financial Information

## Quarterly Returns

- Arrangers of commercial papers and corporate bonds are required to submit quarterly returns by the 10th day of the month following the end of the quarter. The components of the return include:
- The outstanding bond amount
- The names and holdings of the different bond holders
- The average yield of the bond
- A summary showing percentage holding of banks, insurance companies, fund managers, investment companies and individual investors

## Use of Proceeds Report

Issuers of both debt and equity securities to the public are required to submit to the Authority biannually, a detailed report on how the proceeds of the offer have been applied in line with the disclosures contained in the Information Memorandum on the use of proceeds.

## Notification Relating to Capital

An issuer is required to make a public announcement and notify the Nairobi Securities Exchange and the Capital Markets Authority of the following:

- Alteration to capital structure
- New issues of debt securities
- Changes of rights attached to securities
- Basis of allotment
- Issues affecting conversion rights
- Results of new issues



## Disclosure of Periodic Financial Information

### Shareholding

● An issuer is required at the end of each calendar quarter to disclose to the Nairobi Securities Exchange every person who holds or acquires 3% or more of the issuer's ordinary shares and publish in the annual report the following key information:

- Distribution of shareholders
- Names of the ten largest shareholders with their respective ownerships
- Name and address of the company secretary.

An issuer is required to inform the Nairobi Securities Exchange and the Capital Markets Authority in writing when it becomes aware that the proportion of its securities in the hands of the public has fallen below the minimum prescribed of 25%.

### Communication with Shareholders

- 
- Any meeting of shareholders (other than adjourned meeting) should be called by a 21-day notice in writing. All notices convening such meetings should specify the place, hour and agenda of the meeting.
  - A proxy form must be sent with the notice convening a meeting of holders of listed securities to each person entitled to vote at the meeting.
  - An issuer is required to forward to the Nairobi Securities Exchange and the Capital Markets Authority.
  - All circulars, notices, reports, announcements or other documents at the same time as they are issued.
  - All resolutions passed by the issuer at any general meeting of holders of listed securities within 10- days after the relevant general meeting.



## Disclosure of Periodic Financial Information

### Miscellaneous obligations

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An issuer is required to disclose all material information and make public announcement of:

- Any change of address of the registered office or of any other office, which the register of the holders of listed securities is kept.
- Any change in the directors, company secretary or auditors of the issuer.
- Any proposed significant alteration of the memorandum and articles of the issuer.
- Any application filed in a court of competent jurisdiction to wind up the issuer or any of its subsidiaries.
- The appointment or imminent appointment of receiver manager or liquidator of the issuer or any of its subsidiaries.
- Any profit warning whether there is a material discrepancy (25% lower) between the projected earnings for the current financial year and the level of earnings in the previous financial year.



# CHAPTER SIX

## CORPORATE GOVERNANCE AND STEWARDSHIP CODES

Listed companies or unlisted companies that issues securities to the public are required to adhere to certain set rules and regulations including good corporate governance practices which are set by the Authority.

# THE CODE OF CORPORATE GOVERNANCE PRACTICES FOR ISSUERS OF SECURITIES TO THE PUBLIC, 2015



Corporate Governance refers to the way in which the power of a corporation is exercised in the running of the corporation's total portfolio of assets and resources with the objective of maintaining and increasing shareholders' long-term value while considering the interest of other stakeholders. Corporate governance seeks to ensure that leaders act in the best interests of the corporation and its stakeholders. Good corporate governance enhances effectiveness, competitiveness and sustainability of the corporation. Arising from the importance of good corporate governance the CMA has developed corporate governance guidelines to be practiced by listed companies in Kenya.



## OBJECTIVES OF THE CODE OF CORPORATE GOVERNANCE

The Code of Corporate Governance Practices for Issuers of Securities to the Public 2015 is intended to provide the minimum standards required from shareholders, directors, chief executive officers and management of a listed company or an unlisted company that issues securities to the public, so as to promote high standards of conduct as well as ensure that they exercise their duties and responsibilities with clarity, assurance and effectiveness. Main provisions in the guidelines are Commitment to Good Governance; Board Operations and Control; Rights of Shareholders; Stakeholder Relations; Ethics and Social Responsibility; Accountability, Risk Management and Internal Control; and Transparency and Disclosure.

## THE STEWARDSHIP CODE FOR INSTITUTIONAL INVESTORS, 2017

Stewardship in this context refers to the responsible management and oversight of assets for the benefit of the institutional investors' ultimate beneficiaries or clients.

# OBJECTIVE OF THE STEWARDSHIP CODE FOR INSTITUTIONAL INVESTORS

The purpose of the Stewardship Code is to encourage the institutional investment community to take action to serve as responsible stewards for their beneficiaries, provide a framework for institutional investors to engage issuers of securities, promote good corporate governance and sustainable success of listed companies as well as enhance capital markets growth and development.

The Stewardship Code is based on seven core principles:

- Stewardship or responsible investment policies.
- Monitoring companies held in investment portfolios.
- Active and informed voting practices.
- Engagement, escalation and collaboration with other institutional investors.
- Conflicts of interest.
- Focus on sustainability issues, including environmental, social and ethical factors.
- Public disclosures and client reporting.





**If you see something wrong;  
Anonymously and safely report.**

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**Whistleblower Portal**

<https://www.cma.or.ke/index.php/whistleblower>



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