
STATUTORY INSTRUMENTS
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STATUTORY INSTRUMENTS SUPPLEMENT

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THE CAPITAL MARKETS (ADVERTISEMENTS)
REGULATIONS, 1996.

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STATUTORY INSTRUMENTS.

1996 No. 58.

The Capital Markets (Advertisements) Regulations, 1996.

(Under Section 102 of the Capital Markets Authority Statute, 1996, Statute No. 1 of 1996.)

IN EXERCISE of the powers conferred on the Capital Markets Authority Statute, 1996, these Regulations are made this 3rd day of December, 1996.

PART I—PRELIMINARY.

1. These Regulations may be cited as the Capital Markets (Advertisements) Regulations, 1996. Title.

2. (1) In these Regulations unless the context otherwise requires— Inter-pretation.

“image advertisement” means an advertisement that does no more than—

(a) promote public awareness of the licensee;

(b) describe the services which the licensee provides or the types of investment the licensee markets;

(c) commend the licensee in general, but not any particular service the licensee provides or types of investment the licensee markets; or

(d) offer to supply further information on request;

“licensee” means a person licensed under Part IV of the Statute;

“promotion” means advertising, issuing a prospectus, application form or proposal form, or circulating or making available promotional material;

“securities advertisement” means any advertisement for or in connection with securities or securities business;

“short form advertisement” means an advertisement that contains the licensee’s name and in respect of the business of the licensee’s securities business does no more than some or all of the following—

(a) display the licensee’s address, telephone number, symbol or logogram;

(b) describe the licensee’s business and the fees charged;

(c) contain a statement that the licensee is regulated in the conduct of the licensee’s business by the Authority;

(d) state, in relation to securities, that the licensee will or may buy or sell (or arrange to buy or sell), their names, indicative prices, difference of prices from previous prices, their income and yields and their earnings (or price/earnings ratio);

(e) state, simply as a matter of fact, and not so as to imply any offer to deal, that the licensee alone or with others named, arranged the issue of or a transaction in a particular security.

“Statute” means the Capital Markets Authority Statute 1996.

(2) For the purposes of these Regulations, an advertisement issued outside Uganda shall be treated as issued in Uganda if—

(a) it is directed to persons in Uganda; or

(b) it is made available to persons in Uganda in a newspaper, journal, magazine or in a publication published and circulating principally outside Uganda or in a sound or television broadcast transmitted principally for reception outside Uganda.

(3) In these Regulations, any term defined in the Statute shall have the meaning assigned to it in the Statute.

PART II—RESTRICTIONS AND CONDITIONS.

3. No person other than a person authorised under the Statute shall issue a securities advertisement.

Issue of securities advertisements.

4. Every advertisement offering services in the securities business shall include—

Advertisements offering services.

(a) the name and address of the person making the offer;

(b) a description of services offered;

(c) a general statement of the terms and conditions of the services offered;

(d) the place where the person making the offer carries on business; and

(e) such other information as may be directed by the Authority.

5. A licensee shall not issue or cause to be issued, whether in Uganda or elsewhere, a securities advertisement unless the requirements of the Schedule to these Regulations are complied with in relation to that advertisement.

Advertisements to comply with schedule.

6. (1) If the Authority considers that any securities advertisement issued, caused to be issued or proposed to be issued by a licensee is misleading or is otherwise in breach of these Regulations, the Authority may, by notice in writing, give the licensee a direction under this regulation.

Directions by the Authority.

(2) A direction under this regulation may contain all or any of the following prohibitions or requirements—

(a) a prohibition on the issue of advertisements of a kind specified in the direction;

- (b) a requirement that advertisements of a particular description shall be modified in a manner specified in the direction;
- (c) a prohibition on the issue of any advertisements which are, wholly or substantially, repetitions of an advertisement which has been issued or is proposed to be issued and which is identified in the direction;
- (d) a requirement to take all practical steps to withdraw from display in any place or from circulation, any advertisement of a particular description specified in the direction;
- (e) a requirement, in respect of a particular advertisement, that a correction be published in the manner and form specified by the Authority.

Offences.

7. (1) Any person who contravenes regulation 3, 4 or 5 commits an offence.

(2) Any person who refuses or fails, without reasonable excuse, to comply with a direction given under regulation 6 commits an offence.

(3) A person who commits an offence under these Regulations is liable on conviction to a fine not exceeding two million shillings or imprisonment not exceeding twelve months or both.

SCHEDULE

SCHEDULE

Regulation 5.

1. The significance of any statement or other matter required by the provisions of this Schedule to be included in an advertisement shall not be disguised either through lack of any prominence in relation to the remainder of the advertisement or by the inclusion of matter calculated to minimise the significance of the statement or the other matter required to be included.

2. (1) The content of a securities advertisement and the manner of its presentation shall be such that the advertisement is not likely to be misunderstood.

(2) A securities advertisement shall not contain any statement, promise or forecast unless the licensee issuing it has taken all reasonable steps to ensure that the statement, promise or forecast is not misleading in the form or context in which it appears.

(3) A securities advertisement shall not contain any statement, purporting to be a statement of fact that the licensee issuing it does not reasonably believe at the time, on the basis of evidence of which he has a record in his possession, to be true.

(4) If the securities business to which an advertisement relates is available in limited quantities, or for a limited period or on special terms for a limited period, the advertisement may say so; but if that is not the case, the advertisement shall not contain any statement or matter that implies it to be so.

3. (1) The terms of a securities advertisement and the manner of its presentation shall be such that it appears to be an advertisement issued with the object of promoting the securities, securities business or licensee to which it relates.

(2) Where the medium in which the advertisement is carried contains or presents other matter, the advertisement shall be distinguished from that other matter so that the part that is an advertisement clearly appears as such.

4. Except in the case of a short form advertisement or an image advertisement, the nature of the securities or securities business to which the advertisement relates shall be clearly described.

5. No securities advertisement shall be issued with the intention not of persuading persons who respond to the advertisement to pursue the subject matter of the advertisement but, with the intention instead, of persuading them to enter into an agreement, or use business services, of a description not mentioned in the advertisement.

6. A securities advertisement shall not contain any matter that states or implies that the securities or securities business which is the subject of the advertisement or any matter in the advertisement has the approval of any Government department or of the Authority.

7. A securities advertisement that states only some of the rights and obligations attaching to an investment in securities or only some of the terms and conditions of a securities agreement shall—

- (a) state sufficient of them to give a fair view of the nature of the investment in securities, of the financial commitment undertaken by an investor in acquiring the investment in securities and of the risks involved; and
- (b) state how a written statement of all of them can be obtained.

8. A securities advertisement shall not compare or contrast one investment in securities with an alternative investment, or one securities service with an alternative securities service, unless the comparisons and contrasts are fair in relation to what is promoted and to the alternative having regard to what is not stated as well as to what is stated.

9. (1) A securities advertisement that refers to taxation shall contain a warning that the levels and bases of taxation can change.

(2) A securities advertisement that contains any matter based on an assumed rate of taxation shall state what that rate is.

(3) A securities advertisement that refers to reliefs from taxation—

- (a) shall state that the reliefs are those that currently apply; and
- (b) shall contain a statement that the value of a relief from taxation depends upon the circumstances of the tax payer.

10. Where a securities advertisement states that an investor who enters into an investment agreement to which the advertisement relates will be given an opportunity to cancel the agreement, the advertisement shall define the period during which the investor will have that right and the time when the period will begin.

11. A securities advertisement shall not contain information about the past performance of securities investments of any description unless—

(a) it is relevant to the performance of the securities investment which is the subject of the advertisement;

(b) except where the source of the information is the advertiser itself, the source of the information is stated;

(c) where, the whole of the information is not set out—

(i) what is included is not unrepresentative, unfair or otherwise misleading; and

(ii) the exclusion of what is excluded does not have the effect of exaggerating the success or performance over the period to which the information that is included relates;

(d) if the information is presented in the form of a graph or chart, no part of the information is omitted so as to give a misleading impression of the rate at which variable quantities have changed;

(e) in the case of an advertisement of units or shares in a collective investment scheme, any comparison made between the value of an investment in those units or shares at different times is on an offer to bid basis, that is to say, on the basis of what it would have cost to acquire an amount of the units at the earlier time and what a disposal of that amount of those units would have realised at the later time, and the fact that is the basis of the comparison is stated;

(f) the period which is selected as illustrating past performance is a period of not less than three years, which period must end no more than three months before the date of the issue of the advertisement; and

(g) the advertisement contains a warning that the past is not necessarily a guide to the future.

12. (1) A securities advertisement shall not contain any statement indicating the scale of the activities or the extent of the resources of a licensee, or of any group of which the licensee is a member, so as to imply that the resources available to support the performance of the licensee's obligations are greater than they are.

(2) Statements which relate to resources of members of a group other than the licensee shall clearly state that fact.

13. (1) This paragraph applies to any securities advertisement that is not a short form or image advertisement.

(2) An advertisement shall contain a statement in accordance with this paragraph warning of the risks involved in acquiring or holding the securities investment the subject of the advertisement.

(3) Where the advertisement relates to a securities investment in the case of which deductions for charges and expenses are not made uniformly throughout the life of the investment but are loaded disproportionately onto the early years, the advertisement shall draw attention to that fact and the fact that accordingly, if the investor withdraws from the investment in the early years, he or she may not get back the amount he or she has invested.

(4) Where the advertisement relates to an investment that can fluctuate in value in money terms, the statement shall draw attention to that fact and to the fact that the investor may not get back the amount he has invested.

(5) Where the advertisement offers an investment as likely to yield a high income or as suitable for an investor particularly seeking income from his or her investment, the statement shall draw attention to the fact that income from the investment may fluctuate in value in money terms.

(6) Where the advertisement relates to an investment denominated in a currency other than that of the country in which the advertisement is issued, the advertisement shall draw attention to the fact that changes in rates of exchange between currencies may cause the value of the investment to diminish or to increase.

(7) Where the advertisement contemplates the investor entering into an agreement by which the investor is required to pay unspecified additional amounts later, the statement shall draw attention to the fact that, the investor may or, as the case may be, will have to pay more money later and that accordingly a transaction in that investment can lose the investor more than his or her first payment.

(8) Where the advertisement relates to an investment that is not readily realisable—

(a) if the investment is not traded on an established securities exchange, the statement shall draw attention to the fact that there is no established market for investment so that it may be difficult for the investor to sell the investment or for him or her to obtain reliable information about its value or the extent of the risks to which it is exposed; or

(b) if the investment is traded on an established securities exchange but is dealt in so irregularly or infrequently—

(i) that it cannot be certain that a price of that investment will be quoted at all times; or

(ii) that it may be difficult to effect transactions at any price that may be quoted; the statement shall draw attention to that fact.

14. A securities advertisement shall not describe a prospective investment return as being in any way guaranteed, secured, assured or promised, either expressly or impliedly, unless the advertisement has been approved in writing by the Authority prior to its issue.

15. (1) Each securities advertisement in a publication shall state in the bottom right hand corner of the advertisement the date on which it was first issued.

(2) Any securities advertisement by way of a prospectus, brochure, handout or similar marketing literature shall state the date on which it was first issued on either the front or back outside cover page.

(3) Any securities advertisement by way of a cinematograph film, video or TV broadcast and other electronic media shall bear prominently the date on which it was first issued at the beginning or end of the advertising material.

LEO KIBIRANGO,
Chairman, Capital Markets Authority.