

STATUTORY INSTRUMENTS SUPPLEMENT

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STATUTORY INSTRUMENTS

2012 No. 70.

THE UGANDA RETIREMENT BENEFITS REGULATORY AUTHORITY
(LICENSING OF CUSTODIANS) REGULATIONS 2012

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STATUTORY INSTRUMENTS

2012 No. 70.

The Uganda Retirement Benefits Regulatory Authority (Licensing of Custodians) Regulations, 2012.

(Under sections 34, 35 and 91(1) and (2)(c) of the Uganda Retirement Benefits Regulatory Authority Act 2011, Act No. 15 of 2011.)

IN EXERCISE of the powers conferred on the Minister by section 91(1) and (2) (c) of the Uganda Retirement Benefits Regulatory Authority Act 2011, these Regulations are made this 14th day of December, 2012.

PART I—PRELIMINARY

1. Title.

These Regulations may be cited as the Uganda Retirement Benefits Regulatory Authority (Licensing of Custodians) Regulations, 2012.

2. Interpretation.

In these Regulations unless the context otherwise requires—

“Act” means the Uganda Retirement Benefits Regulatory Authority Act, 2011;

“custodian” has the meaning given to it under the Act;

“licence” means a licence issued in accordance with the Act and these Regulations.

PART II—LICENSING OF CUSTODIANS

3. Application for licence of custodian.

An application for a licence of a custodian of a retirement benefits scheme shall be in the form prescribed in Schedule 2 and shall state—

- (a) the name of the financial institution;

- (b) a physical address of a place in Uganda for the service on the applicant of any notice or document required or authorised to be served on the applicant under the Act or these Regulations and the physical address or addresses of the applicant over a period of the last five years;
- (c) whether at the date of the application, the applicant has been convicted in or is subject to any pending or present criminal proceedings ;
- (d) whether the applicant is the subject of any insolvency proceedings in any country;
- (e) information to prove that the applicant has adequate professional, technical and operational systems to perform the functions of a custodian of a retirement benefits scheme; and
- (f) any other information that the Authority may require for the purpose of determining the application.

4. Mode of application.

(1) An application for a licence to act as a custodian of a retirement benefits scheme shall be accompanied by—

- (a) the prescribed fee;
- (b) a certified copy of a licence of the financial institution issued under the Financial Institutions Act, 2004;
- (c) a certified copy of the Certificate of Incorporation of the financial institution;
- (d) a certified copy of the Memorandum and Articles of Association of the financial institution; •
- (e) a certified copy of a No objection letter issued by the Bank of Uganda to offer custodial services;
- (f) a statutory declaration sworn by the applicant verifying the facts set forth in the application.

(2) An applicant shall be notified of the decision of the Authority within ninety days from the date of receipt of the application.

5. Grant of licence or refusal to grant licence of custodian.

(1) The Authority may grant a licence to an applicant who complies with the requirements of the Act and these Regulations.

(2) A licence of a custodian of a retirement benefits scheme shall be in the form prescribed in Schedule 3.

(3) The Authority may, in granting a licence, attach such conditions to the licence as it may deem necessary.

(4) Where the Authority refuses to grant a licence to an applicant the Authority shall notify the applicant of its decision and specify the reasons for the refusal.

(5) The notice referred to under sub-regulation (4) shall be in the form prescribed in Schedule 4.

6. Licence fee of custodian.

(1) The applicant shall pay to the Authority a prescribed licence fee.

(2) The licence fee shall become due and payable by successful applicants within thirty days after notification of the decision to grant a licence.

7. Validity, renewal and display of licence of custodian.

(1) A licence issued to a custodian shall be valid for one year and may be renewed annually upon payment of the prescribed fee.

(2) An application for the renewal of a licence shall be in the form prescribed in Schedule 5.

(3) A custodian shall at all times, display a valid licence in a conspicuous place at the head office of the custodian, and copies of the licence shall be similarly displayed in a conspicuous place at each of the custodian's branch offices.

8. Revocation of licence of custodian.

(1) The Authority may revoke the licence of a custodian in accordance with section 38 of the Act.

(2) The notice referred to under section 38(2) of the Act shall be in the form prescribed in Schedule 6.

9. Guidelines.

(1) The Authority shall issue guidelines to ensure compliance with the provisions of the Act and these Regulations.

(2) Where the Authority has reasonable cause to believe that a custodian is not complying with the guidelines issued in accordance with the Act and these Regulations, the Authority shall issue a notice in the form prescribed in Schedule 7 requiring the custodian to comply with the guidelines of the Authority.

10. Penalty.

A custodian which contravenes any provision in these Regulations commits an offence and is liable to a penalty equivalent to seventy five currency points and in case of continuing contravention, fifty currency points for each day that the offence continues.

11. Fees.

The fees payable under these Regulations are prescribed in Schedule 8.

SCHEDULE 1

Regulation 2

CURRENCY POINT

One currency point is equivalent to twenty thousand shilling

SCHEDULE TWO

Regulation 3

THE UGANDA RETIREMENTS BENEFITS REGULATORY
AUTHORITY ACT 2011, ACT No. 15 OF 2011

THE UGANDA RETIREMENT BENEFITS REGULATORY AUTHORITY
(LICENSING OF CUSTODIANS) REGULATIONS, 2012.

APPLICATION FOR A LICENCE OF A CUSTODIAN

*(Under regulation 3 of the Uganda Retirement Benefits Regulatory Authority
(Licensing of Custodians) Regulations, 2012)*

Provide the following—

A. PARTICULARS OF APPLICANT

- (i) Name of applicant.....
- (ii) Date and place of incorporation
- (iii) Tax Identification Number.....
- (iv) Physical address of principal place at which the business of the
applicant is to be carried on.....
Telephone
- Fax
- Email.....
- (v) Citizenship.....

B. MANAGEMENT

- (i) Particulars of Directors of applicant. (Appendix A)
- (ii) Particulars of the Key officer of applicant (Appendix B)
- (iii) Particulars of Auditors (Appendix C)

- (iv) List the retirement benefits schemes the applicant has provided custodial services to within the period of three years ending as at the date of application. (*Incase of insufficient space provide separate attachment*).

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

C. ATTACHMENTS.

Please attach the following—

- (i) certified copies of latest audited report and accounts;
- (ii) certified copy of the applicant's licence as a financial institution issued under the Financial Institutions Act, 2004;
- (iii) certified copies of memorandum and articles of applicant;
- (iv) evidence of the ability of the applicant to perform the functions of a custodian;
- (v) a certified copy of a No objection letter issued by the Bank of Uganda to offer custodial services; and
- (vi) a statutory declaration supporting the application.

I am aware of the provisions of section 38 (1) (a) of the Act relating to false statements made in relation to the application.

I hereby declare that the information contained herein and the documents submitted herewith are true and accurate to the best of my knowledge and belief.

Signed on this day of

Signature.....
Full name
Designation

Signature.....
Full name
Designation

Signature.....
Full name
Designation

APPENDIX A

PARTICULARS OF THE BOARD OF DIRECTORS OF CUSTODIAN

Name of the custodian

<i>Director (full Name)</i>	<i>Nationality</i>	<i>Physical Address</i>	<i>Occupation</i>	<i>Date of Appointment</i>	<i>No. of Shares held</i>

APPENDIX B

PARTICULARS OF KEY OFFICERS OF THE CUSTODIAN

Name of custodian.....

<i>Executive (full name)</i>	<i>Designation</i>	<i>Nationality</i>	<i>Physical Address</i>	<i>Date of Appointment</i>	<i>Academic and Professional qualifications</i>	<i>Years of experience</i>

SCHEDULE THREE

Regulation 5(2)

THE UGANDA RETIREMENTS BENEFITS REGULATORY
AUTHORITY ACT 2011, ACT No.15 OF 2011

THE UGANDA RETIREMENT BENEFITS REGULATORY AUTHORITY
(LICENSING OF CUSTODIANS) REGULATIONS, 2012.

**LICENCE OF A CUSTODIAN OF A RETIREMENT
BENEFITS SCHEME**

*(Under regulation 5(2) of the Uganda Retirement Benefits Regulatory
Authority (Licensing of Custodians) Regulations, 2012)*

LICENCE No.....

This is to certify that.....(custodian)
is licensed to act as a Custodian of retirement benefits scheme subject to the
provisions of the Uganda Retirement Benefits Regulatory Authority Act, 2011,
the regulations made under the Act and the conditions endorsed hereon.

CONDITIONS

Given under my hand and seal of the Uganda Retirement Benefits Regulatory
Authority this.....day of.....

.....
Chairperson

.....
Chief Executive Officer

.....
Secretary to the Board

SCHEDULE FOUR

Regulation 5(5)

**THE UGANDA RETIREMENTS BENEFITS REGULATORY
AUTHORITY ACT 2011, ACT No.15 OF 2011**

**THE UGANDA RETIREMENT BENEFITS REGULATORY AUTHORITY
(LICENSING OF CUSTODIANS) REGULATIONS, 2012.**

NOTICE OF REFUSAL TO GRANT LICENCE OF CUSTODIAN

*(Under regulation 5(5) of the Uganda Retirement Benefits Regulatory
Authority (Licensing of Custodians) Regulations, 2012)*

To

RE:

TAKE NOTICE that upon consideration of your application for a licence to act as a custodian of a Retirement Benefits Scheme in accordance with the provisions of the Uganda Retirement Benefits Regulatory Authority Act, 2011 and the regulations made under the Act, the Authority has found your application unsuccessful and consequently refused to license you due to the following reasons:-

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

Yours faithfully,

.....
Chief Executive Officer
Uganda Retirement Benefits Regulatory Authority.

SCHEDULE FIVE

Regulation 5(5)

THE UGANDA RETIREMENTS BENEFITS REGULATORY
AUTHORITY ACT 2011, ACT No.15 OF 2011

THE UGANDA RETIREMENT BENEFITS REGULATORY AUTHORITY
(LICENSING OF CUSTODIANS) REGULATIONS, 2012.

APPLICATION FOR RENEWAL OF LICENCE OF A CUSTODIAN.
*(Under regulation 7(2) of the Uganda Retirement Benefits Regulatory
Authority (Licensing of Custodians) Regulations, 2012)*

1. Application is made for the renewal of a licence for a custodian and the following statements are made in respect of the applicant—
 - (a) applicant's name:
 - (b) licence No:
 - (c) expiry date of licence:

2. Please complete the following-(Answer "Yes" or "No" in space provided. If "Yes" attach annexure giving all relevant particulars.)
 - (a) Since the last application—
 - (i) Has there been a change in the applicant's key officers?
.....
 - (ii) Has the applicant or the applicant's key officers been suspended from membership of any professional body?
.....
 - (iv) Has the applicant been a custodian of any retirement benefits scheme other than that/those referred to in the last application?
.....
 - (v) Has the applicant taken any disciplinary action against any of its representatives?
.....

(vi) Has the applicant received any complaint against any of its representatives?
.....

(vii) Has the applicant undertaken to conduct any material new custodial function?
.....

If so, state the nature of the function.....

(b) Please furnish details of any other event which has occurred which is likely to have a significant effect on the applicant's functions during the currency of the licence if granted (including any legal claim against the applicant.)

3. Since the last application, has any of the applicant's key officers—
(Answer "Yes" or "No" in space provided. If "Yes" attach annexure giving all relevant particulars.)

(a) been suspended from membership of any professional body?

(b) been convicted of any offence other than a traffic offence in Uganda or elsewhere or are there any proceedings now pending which may lead to such a conviction?
.....

(c) had judgment including findings in relation to fraud, misrepresentation or dishonesty given against the key officer in any civil proceedings, in Uganda or elsewhere? (If "Yes": using an annexure, give full details, including whether judgment is unsatisfied.)
.....

(d) been declared insolvent or compounded with or made an arrangement for the benefit of its creditors in Uganda or elsewhere?

(e) been engaged as a custodian of any retirement benefits scheme other than one referred to in the last application?
.....

(f) undertaken to conduct any new custodial function? If so, state the nature of the function
.....

(g) been disciplined by any professional body or other membership body?
.....

4. I am/We are aware of the provisions of section 38(1) (a) of the Uganda Retirement Benefits Regulatory Authority Act 2011 relating to false statements in applications.
5. I/We declare that all information given in this application and in the attached annexure (if any) is true and correct.

Made this.....day of.....

Signature.....

Full name of applicant.....

Designation.....

Signature.....

Full name of applicant.....

Designation.....

SCHEDULE SIX

Regulation 8(2)

**THE UGANDA RETIREMENTS BENEFITS REGULATORY
AUTHORITY ACT, 2011 ACT No.15 OF 2011**

**THE UGANDA RETIREMENT BENEFITS REGULATORY AUTHORITY
(LICENSING OF CUSTODIANS) REGULATIONS, 2012.**

NOTICE OF INTENTION TO REVOKE LICENCE OF CUSTODIAN
*(Under regulation 8(2) of the Uganda Retirement Benefits (Licensing of
Custodians) Regulations, 2012)*

To

RE:

TAKE NOTICE that the Authority intends to revoke your licence for the following reasons:-

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

TAKE FURTHER NOTICE that you may make your representations in writing to the Authority in regard to the said intention within the next thirty (30) days from the date of this notice which representations the Authority shall consider in accordance with the provisions of the Uganda Retirement Benefits Regulatory Act, 2011 and the regulations made under the Act before finally making its decision on the said intended revocation.

Yours faithfully.

.....
Chief Executive Officer
Uganda Retirement Benefits Regulatory Authority

c.c. Trustees of the scheme
cc. Scheme Sponsor

SCHEDULE SEVEN

Regulation 9(2)

THE UGANDA RETIREMENTS BENEFITS REGULATORY
AUTHORITY ACT, 2011 ACT No. 15 OF 2011

THE UGANDA RETIREMENT BENEFITS REGULATORY AUTHORITY
(LICENSING OF CUSTODIANS) REGULATIONS, 2012.

NOTICE REQUIRING COMPLIANCE OF GUIDELINES OF
AUTHORITY

*(Under regulation 9(2) of the Uganda Retirement Benefits (Licensing of
Custodians) Regulations, 2012)*

To

RE:

TAKE NOTICE that pursuant to an inspection made and report thereof written
and furnished on the Authority, particular matters arise out of the said report
which require urgent correction.

Consequently the Authority hereby requires your compliance of the following
guidelines:

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

TAKE FURTHER NOTICE that you are required to comply with the said
guidelines within the next..... days from the date of this notice or by the
..... day of

Yours faithfully

.....
Chief Executive Officer
Uganda Retirement Benefits Regulatory Authority

SCHEDULE EIGHT

Regulation 11

**THE UGANDA RETIREMENTS BENEFITS REGULATORY
AUTHORITY ACT, ACT No.15 OF 2011**

**THE UGANDA RETIREMENT BENEFITS REGULATORY AUTHORITY
(LICENSING OF CUSTODIANS) REGULATIONS, 2012.**

FEES

*(Under regulation 11 of the Uganda Retirement Benefits Regulatory Authority
(Licensing of Custodians) Regulations, 2012)*

<i>No.</i>	<i>Item</i>	<i>Amount</i>
1.	Application fee for a licence of a custodian of a retirement benefits scheme	25 currency points
2.	Annual Licence fees	100 currency points

MARIA KIWANUKA.
Minister of Finance Planning and Economic Development.