

(Legislative Supplement No. 37)

LEGAL NOTICE NO. 74

THE CAPITAL MARKETS ACT

(Cap. 485A)

THE CAPITAL MARKETS (NAIROBI SECURITIES EXCHANGE LIMITED SHAREHOLDING) REGULATIONS, 2016

IN EXERCISE of the powers conferred by Section 12(1) of the Capital Markets Act, the Cabinet Secretary for the National Treasury makes the following Regulations-

THE CAPITAL MARKETS (NAIROBI SECURITIES EXCHANGE LIMITED SHAREHOLDING) REGULATIONS, 2016

1. These Regulations may be cited as the Capital Markets (Nairobi Securities Exchange Limited Shareholding) Regulations, 2016.

Citation

2. In these Regulations unless the context otherwise requires -

Interpretation

“acting in concert” means persons who pursuant to a formal or informal agreement or understanding actively co-operate through the acquisition by any of them of shares in a public listed company to obtain or consolidate control of that company;

“Exchange” means the Nairobi Securities Exchange Limited;

“private company” has the meaning assigned to it under the Companies Act;

No.17 of 2015

“public company” has the meaning assigned to it under the Companies Act; and

No.17 of 2015

“trading participant” means a licensed person with rights to trade at the Exchange.

3. (1) An individual or private company shall not, at any time, directly or indirectly, either individually or together with persons acting in concert hold more than five percent of the equity share capital of the Exchange.

Restriction on Shareholding

(2) A public company shall not, at any time, directly or indirectly, either individually or with persons acting in concert, hold more than ten percent of the equity share capital of the Exchange.

(3) The trading participants shall not, at any time, directly or indirectly, cumulatively hold more than forty percent of the total equity shareholding of the Exchange.

4. (1) A person may apply to the Authority to waive the ownership restrictions under Regulation 3 (1) or 3 (2).

Approval to exceed limit

(2) The Authority may grant the waiver if—

- (a) it is satisfied that such waiver is in the interest of the public or of the Exchange; and
- (b) it certifies the applicant to be fit and proper.

(3) A person granted waiver under sub-regulation (2) shall file a declaration within fifteen days of the end of every financial year to the Authority and the Exchange that he has complied with the fit and proper criteria provided in the Act.

(4) A person who-

- (a) holds five per cent or more of the equity shares of the Exchange; and
- (b) the Authority has determined that that person does not fulfill the fit and proper criteria as set out under the Act, shall—
  - (i) cease to exercise all his voting rights immediately upon the Exchange being notified by the Authority, in writing, that the shareholder does not fulfill the fit and proper criteria as set under the Act; and
  - (ii) reduce the holding of equity shares to less than five per cent of the share capital of the Exchange within twelve months, or such longer period as the Authority may determine.

5. (1) The provisions of Regulation 17 and 18 of the Capital Markets (Derivatives Markets) Regulations shall not apply to the Exchange.

Exemption  
L.N. 37 of 2016

6. Any person holding equity shares in the Exchange in excess of the limits specified in these Regulations at the commencement of these Regulations shall reduce his shareholding within six months to ensure compliance with these Regulations or apply for exemption in accordance with Regulation 4.

Transitional  
provisions

Dated 25th April, 2016.

HENRY ROTICH,  
*Cabinet Secretary for the National Treasury.*