



PUBLIC NOTICE

GUIDANCE ON TRANSITIONAL ARRANGEMENTS FOR THE COFFEE SECTOR PLAYERS IN LINE WITH THE CAPITAL MARKETS (COFFEE EXCHANGE) REGULATIONS, 2020

Pursuant to Section 11 (3) (fa) of the Capital Markets Act, the Capital Markets Authority is mandated to regulate the spot commodity markets in Kenya and in particular the coffee commodity market.

Towards this end, the Capital Markets (Coffee Exchange) Regulations, 2020 were gazetted by the Cabinet Secretary of the National Treasury and Planning on 3rd April 2020.

This Regulations read together with Crops Coffee General Regulations, 2019 envisage that the Coffee Exchange and the Coffee Brokers are to be licensed and supervised by the Capital Markets Authority (CMA) effective 1st July 2020. However, under the Capital Markets (Coffee Exchange) Regulations, 2020, there is a transitional period of one year for the Coffee Exchange to come into full compliance.

In its efforts to ensure that there is an orderly and smooth transition, as well as minimal disruption to business operations, the CMA has been engaging with the various stakeholders, including the Agricultural Food Authority (AFA), the Nairobi Coffee Exchange (NCE), Kenya Coffee Traders Association (KCTA), the Association of Commercial Coffee Millers and Marketing Agents, as well as Kenya Coffee Producers Association (KCPA), the Coffee Sector Reforms Implementation Committee as well as the National Treasury & Planning.

During these engagements, it has been agreed that all the stakeholders need to work together to ensure there is a smooth transition and that business is not disrupted at all levels along the coffee value chain.

In order to achieve this smooth transition, the following measures have been put in place:

1. The CMA hereby grants Nairobi Coffee Exchange a no objection to operate in its current form as it works towards full compliance with Capital Markets (Coffee Exchange) Regulations, 2020;

2. All the coffee marketing agents who intend to perform the role of coffee brokerage services at the Coffee Exchange, should get clearance from Nairobi Coffee Exchange and then make a licence application to the CMA. The CMA is cognizant of the fact that some of applicants intending to carry out coffee brokerage services may not be able to immediately meet all the requirements for the issuance of a coffee broker's license. With this understanding, the CMA has established mechanisms to grant them permission to continue performing the role of coffee brokerage services once they apply and as they work towards coming into full compliance;
3. Where there are running contracts between farmers and the commercial marketing agents at least for the crop year ending September 30th, 2020, the rights and obligations under the contracts should continue to be complied with;
4. The requirement to have Bank guarantees for the purposes of ring-fencing farmers proceeds should continue to be complied with during the transition period to ensure all interests of farmers are fully protected;
5. Noting that the Direct Settlement System (DSS) will not be in place by July 1st, 2020, the CMA directs that the existing payment and protection mechanisms continue to be utilized and complied with respectively during the interim period whilst the DSS is being put in place;
6. All details of direct coffee sales will be reported to the Nairobi Coffee Exchange;
7. All disputes that may arise in relation to coffee sales should be forwarded to the Authority for follow up and resolution for the benefit of the coffee growers; and
8. An industry committee will be constituted to consult and address any gaps that exists and those that may emerge during the transition period.



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