

GOVERNMENT NOTICE NO:..... published on

THE CAPITAL MARKETS AND SECURITIES ACT 1994
(NO: 5 OF 1994)

REGULATIONS

Made under Section 10(j), (l), (m) and section 148(1)

**THE CAPITAL MARKETS AND SECURITIES (FOREIGN INVESTORS)
REGULATIONS 2003**

Citation **1.** These Regulations may be cited as the Capital Markets and Securities (Foreign Investors) Regulations 2003 and shall come into effect on 21st May, 2003.

Interpretation **2.** In these Regulations unless the context requires otherwise-

“authorized depository” means an authorized central depository for the time being licensed by the Authority to hold share certificates or securities in the name of investors;

“foreign investor” means a person who or a body corporate which intends to acquire or has acquired securities in a listed company and –

(a) in case of a natural person, means a person who is not a citizen of the United Republic of Tanzania; and

(b) in the case of a body corporate, means a body corporate in which more than fifty percent of its shareholding is held by-

(i) persons who are not citizens of the United Republic of Tanzania; or

(ii) body or bodies corporate not registered in the United Republic of Tanzania;

“issuer” means a company or other legal entity whose securities are subject of an application for listing or have been listed;

“institutional investor” means a body corporate whose ordinary business is to hold, manage or invest funds in connection with retirement benefits, insurance contracts, mortgage and savings schemes and any fund or scheme in the nature of a collective investment;

“listed” means being admitted to the official list of a stock exchange and listing shall be construed accordingly;

“listed company” means an issuer any part of whose securities have been listed;

“official list” means the register of securities maintained by a stock exchange;

“public issue” means an offer of an issuer’s securities to the public;

“national of the prescribed territory” in relation to-

(a) a natural person, means a citizen of the prescribed territory;

(b) a body corporate, means a company incorporated under the law regulating the affairs of companies in the prescribed territory in which citizens or Government of the prescribed territory has beneficial interest in at least fifty per centum of the ordinary shares of such company, or any other body corporate established or incorporated in the prescribed territory under the provisions of any written law.

“prescribed territory” means the Republic of Kenya or the Republic of Uganda;

Participation of foreign investors

3.-(1) A foreign investor may purchase the securities of a listed company or of an issuer in respect of which the issuer is making a public issue.

(2) Notwithstanding the provisions of Regulation 3 (1), and with the exception of financial institutions a foreign investor shall not participate in the selling, purchasing or otherwise of Government securities.

(3) In this Regulation "Financial Institution" shall have the meaning ascribed to it under the Banking and Financial Institutions Act, 1991.

(4) A foreign investor may purchase the securities of an issuer if the aggregate of the securities to be held by foreign investors does not exceed a maximum limit of sixty percent of the total number of the issued securities of an issuer.

(5) For avoidance of doubt, Regulation 3 (3) shall not be construed to preclude Tanzanians from participating in the purchase of securities of issuers, which fall in the category of the limit prescribed in Regulation 3 (3).

(6) The securities purchased by a single individual foreign investor or by two or more foreign investors jointly, shall not exceed one percent of the total number of the issued securities of an issuer.

(7) The shares purchased by a single institutional foreign investor or by two or more institutional foreign investors jointly shall not exceed five percent of the total number of the issued securities of an issuer.

(8) Notwithstanding the provisions of Regulation 3 (3), an issuer may, with prior written approval of the Authority in case of a public issue, allot the securities in excess of the prescribed limit to residents of the prescribed territory and foreign investors in that order, if Tanzanians do not take the securities.

Report by
Stock
exchange
to the
Authority
and Bank
of Tanzania

4.-(1) A stock exchange shall prepare in respect of each day, a report showing-

(a) the number of securities of each listed company traded on that day; and

(b) the per centum of securities of each listed company held by foreign investors

and shall furnish that report to the Authority before the commencement of trade on the next trading day and on monthly basis, to the Bank of Tanzania.

(2) A stock exchange shall post in a prominent place at its principal place of business, the report prepared under this Regulation.

Deposit of securities with an authorized depository

5.-(1) A dealer or broker shall deposit the securities registered in the name of a foreign investor with an authorized depository designated by the foreign investor.

(2) An authorized depository shall hold in its custody the securities referred to in Regulation 5 (1) in accordance with the provisions of the law regulating the custody of securities.

(3) Where the issuer's securities are immobilized or dematerialized, the securities shall be held by an authorized depository.

Report by authorized depository

6. An authorized depository shall, in respect of each month, prepare a report showing the statement of accounts of the securities in its custody and shall furnish such report to the Authority and the Bank of Tanzania within seven days after the end of every month.

Saving provisions

7.-(1) These Regulations shall not require a foreign investor who, at the commencement of these Regulations, holds securities of an issuer in excess of the limit prescribed in these Regulations, to dispose of the excess securities.

(2) Subject to Regulation 7 (1), the securities held by the foreign investor who, at the commencement of these regulations exceeded the prescribed limit, may be sold so that the aggregate of the securities of that issuer held by foreign investors does not exceed the limit prescribed in these Regulations.

(3) A foreign investor referred to in this regulation shall, prior to any sale of its shareholding, intimate its intention to sell to the Authority and the Authority shall consider and direct the sale to proceed or otherwise impose conditions on the sale as the Authority considers necessary for the protection of the interests of investors.

(4) Notwithstanding Regulation 7 (2), a foreign investor may, with prior approval of the Authority, in case of a sale referred to in Regulation 7 (2), sell the securities previously held by him in excess of the prescribed limit to residents of the prescribed territory and foreign investors in that order, if Tanzanians do not absorb the securities offered.

(5) Nothing in these Regulations shall restrict the right of a foreign investor to acquire additional securities by way of a bonus or rights issue pursuant to the memorandum or articles of association or other regulations of a listed company or under the provision of any other written law.

Dar es salaam,
.....2003

Basil Pesambili Mramba ,
Minister for Finance