



# **PROSPECTUS FOR LISTING & RIGHTS ISSUES**

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**REGULATORY AFFAIRS  
NAIROBI SECURITIES EXCHANGE**



# COMPANY



# PROSPECTUS





# PROSPECTUS FOR LISTING

Prospectus” means any prospectus, notice, circular, advertisement or other invitation, offering to the public for subscription or purchase any shares or debentures of a company



# PROSPECTUS

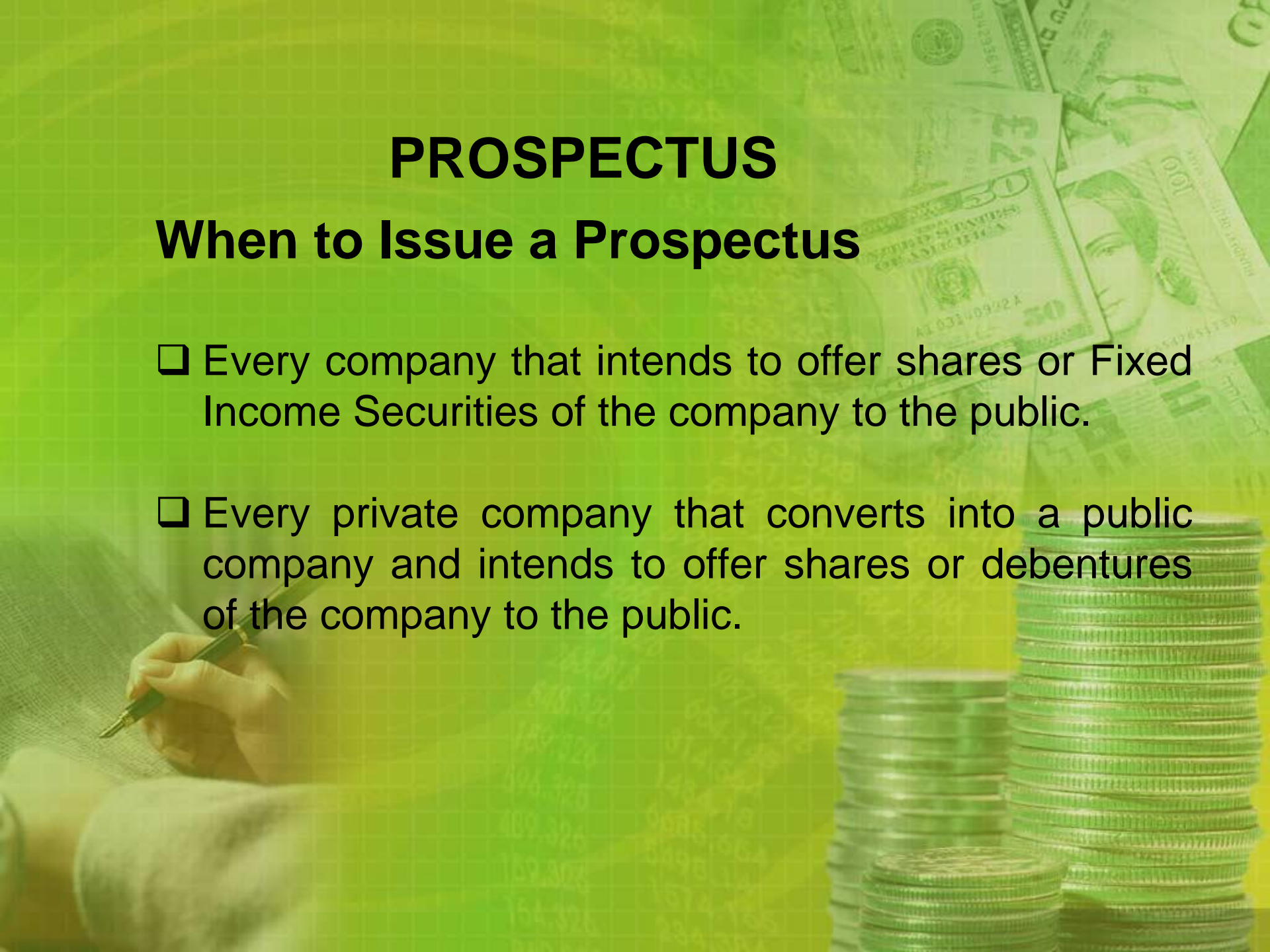
## Why Prepare a Prospectus?

- ☐ It is a requirement of Part III of the Companies Act.
- ☐ For purposes of listing. Capital Markets Authority Act Cap 485A and its Subsidiary regulation.
- ☐ The disclosure requirements to be contained in a Prospectus are outlined in the “***the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations-2002.***”

# PROSPECTUS

## When to Issue a Prospectus

- ☐ Every company that intends to offer shares or Fixed Income Securities of the company to the public.
- ☐ Every private company that converts into a public company and intends to offer shares or debentures of the company to the public.



# Approval of a Prospectus

- ☐ A prospective Issuer shall, before the time of publication of the prospectus, obtain approval of the Capital Markets Authority confirming that the prospectus complies with the requisite regulatory disclosures.
- ☐ A copy of the approved prospectus is delivered to the Registrar of companies.
- ☐ The Issuer also publishes the prospectus to make it available to the public or the section of the public, free of charge at an address in Kenya, during the offer period or for such period prior to Listing as prescribed by the CMA

# Disclosure for Public Interest

The form and content of a prospectus shall be in compliance with the requirements of the Third Schedule -:

- ☐ Part A where the issuer seeks to list on the Main Investment Market Segment;
- ☐ Part B where the issuer seeks to list on the Alternative Investment Market Segment;
- ☐ Part C where the issuer seeks to list on the Fixed Income Securities Market Segment;
- ☐ Part CC Growth Enterprises Market Segment Disclosure Requirements; and
- ☐ Part D where the issuer seeks to list on any segment of the market by way of Introduction.

Requirement	Part A Criteria for The Main Investment Market Segment	Part B Criteria for The Alternative Investment Market Segment	Part C Criteria for The Growth Enterprise Market Segment
<b>Incorporation Status</b>	A public company limited by shares and registered under the Companies Act (Cap. 486 of the Laws of Kenya).		
<b>Share Capital</b>	Minimum authorized, issued and fully paid up ordinary share capital of <b><u>fifty million shillings.</u></b>	Minimum authorized, issued and fully paid up ordinary share capital of <b><u>twenty million shillings.</u></b>	Minimum authorized and fully paid up ordinary share capital of <b><u>ten million shillings;</u></b> and  The issuer must have not less than <b><u>one hundred thousand shares in issue</u></b>
<b>Net Assets</b>	Should not be less than <b><u>one hundred million shillings</u></b>	Should not be less than <b><u>twenty million shillings</u></b>	N/A

Requirement	Part A Criteria for The Main Investment Market Segment	Part B Criteria for The Alternative Investment Market Segment	Part C Criteria for The Growth Enterprise Market Segment
Free transferability of shares	Shares to be listed shall be freely transferable and not subject to any restrictions on marketability or any preemptive rights.		
Availability and reliability of financial records	<p>The issuer shall have audited financial statements complying with International Financial Reporting Standards (IFRS) for an accounting period ending on a date not more than four months prior to the proposed date of the offer or listing for issuers whose securities are not listed at the securities exchange, and six months for issuers whose securities are listed at the securities exchange.</p> <p>The Issuer must have prepared financial statements for the latest accounting period on a going concern basis and the audit report must not contain any emphasis of matter or qualification in this regard.</p>		N/A

Requirement	Part A Criteria for The Main Investment Market Segment	Part B Criteria for The Alternative Investment Market Segment
Competence and suitability of directors and management	<p>At the date of the application, the issuer must not be in breach of any of its loan covenants particularly in regard to the maximum debt capacity.</p> <p>As at the date of application and for a period of at least two years prior to the date of the application, no director of the issuer shall have:</p> <p>Any petition under bankruptcy or insolvency laws in any jurisdiction pending or threatened against any director (for individuals), or any winding- up petition pending or threatened against it (for corporate bodies</p>	

Requirement	Part A Criteria for The Main Investment Segment	Part B Criteria for The Alternative Investment Market Segment
Competence and suitability of directors and management	<p>Any criminal proceedings in which the director was convicted of fraud or any criminal offence, nor be named the subject of pending criminal proceeding, or any other offence or action within or outside Kenya; or acting as an investment advisor or as a director or employee of a stockbroker, dealer, or any financial service institution or engaging in any type of business practice or activity in that jurisdiction.</p> <p>been the subject of any ruling of a court of competent jurisdiction or any government body in any jurisdiction, that permanently or temporarily prohibits such director from acting as an investment advisor or as a director or employee of a stockbroker, dealer, or any financial service institution or engaging in any type of business practice or activity in that jurisdiction.</p>	

Requirement	Part A Criteria for The Main Investment Market Segment	Part B Criteria for The Alternative Investment Market Segment
Competence and suitability of directors and management	<p>The issuer must have suitable senior management with relevant experience for at least one year prior to the listing, none of whom shall have committed any serious offence in any jurisdiction that may be considered inappropriate for the management of a listed company</p> <p>The issuer shall ensure continued retention of suitably qualified management during listing and no change of management for a period of twelve months following the listing other than for reason of a serious offence that may be considered to affect the integrity or be inappropriate for management of a listed company.</p> <p>The issuer must have at least a third of the board of directors as non-executive.</p>	

Requirement	Part A Criteria for The Main Investment Market Segment	Part B Criteria for The Alternative Investment Market Segment	Part C Criteria for The Growth Enterprise Market Segment
Dividend policy	The issuer must have a clear future dividend policy.		N/A
Track record, profitability and future prospects	The issuer must have declared profits after tax attributable to shareholders in at least three of the last five completed accounting periods to the date of the offer	The issuer must have been in existence in the same line of business for a minimum of two years one of which should reflect a profit with good growth potential.	N/A

Requirement	Part A Criteria for The Main Investment Market Segment	Part B Criteria for The Alternative Investment Market Segment	Part C Criteria for The Growth Enterprise Market Segment
Solvency and adequacy of working capital	<p>The issuer should not be insolvent</p> <p>The issuer should have adequate working capital.</p>		<p><i>The issuer should not be insolvent. The issuer should have adequate working capital.</i></p> <p><i>The Directors of the Issuer shall give an opinion on the adequacy of working capital for at least twelve months immediately following the share offering, and the auditors of the issuer shall confirm in writing the adequacy of that capital</i></p>

Requirement	Part A Criteria for The Main Investment Market Segment	Part B Criteria for The Alternative Investment Market Segment
Share ownership structure	Following the public share offering or immediately prior to listing in the case of an introduction, at least twenty five per centum of the shares must be held by not less than one thousand shareholders excluding employees of the issuer.	<i>Following the public share offering or immediately prior to listing in the case of an introduction, <b><u>at least twenty per centum of the shares must be held by not less than one hundred shareholders</u></b> excluding employees of the issuer or family members of the controlling shareholders.</i>

Requirement	Part A Criteria for The Main Investment Market Segment	Part B Criteria for The Alternative Investment Market Segment
Share ownership structure	In the case of a listing by introduction, the issuer shall ensure that the existing shareholders, associated persons or such other group of controlling shareholders who have influence over management shall give an undertaking not to sell their shareholding before the expiry of a period of twenty four months following listing and such undertaking shall be disclosed in the Information Memorandum	<p>No investor shall hold more than three per centum of the twenty per centum shareholding</p> <p>The issuer must ensure that the existing shareholders, associated persons or such other group of controlling shareholders who have influence over management shall give an undertaking to the Authority not to sell their shareholding before the expiry of a period of twenty four months following listing and such undertaking shall be disclosed in the Information Memorandum.</p>

Requirement	Part A Criteria for The Main Investment Market Segment	Part B Criteria for The Alternative Investment Market Segment	Part C Criteria for The Growth Enterprise Market Segment
Listed shares to be immobilized.	N/A	N/A	All issued shares must be deposited at a central depository established under the Central Depositories Act, 2000 (No. 4 of 2000).
Nominated Advisor	N/A	N/A	The issuer must appoint a Nominated Adviser in terms of a written contract and must ensure that it has a Nominated Adviser at all times.

# Disclaimer Requirement

Every prospectus shall contain the following disclaimer on its front page.

***“As a matter of policy, the Capital Markets Authority assumes no responsibility for the correctness of any statements or opinions made or reports contained in this prospectus. Approval of the issue and/or listing is not to be taken as an indication of the merits of the issuer or of the securities”***

# Persons Responsible for preparing the Prospectus

- ☐ the issuer of the securities;
- ☐ each person who is a director at the time of publishing the prospectus
- ☐ each person who has given his consent to be named as a director or as having agreed to become a director immediately or at a future time;
- ☐ each person who accepts, and is stated in the prospectus as accepting, responsibility for, or for any part contained in the prospectus ; and
- ☐ each person not falling within any of the foregoing paragraphs who has authorised the publication of the prospectus

## Contents of a Prospectus

- ☐ Identity of directors, senior management and advisers i.e. persons responsible for the information disclosed;
- ☐ Offer statistics and expected timetable;
- ☐ Information on the Issuer;
- ☐ Operating and financial review and prospectus (the recent development and Prospects of the group);
- ☐ Directors and senior management;
- ☐ Major shareholders and related party transactions;
- ☐ Financial information;
- ☐ The offer and listing;
- ☐ Vendors;

# Contents of a Prospectus

- ☐ The contents of the Prospectus with the particulars of signatories and number of shares subscribed by them.
- ☐ The number and value of shares.
- ☐ Description of business to be undertaken and its prospects.
- ☐ Any provision in the articles relating to remuneration of Directors and Chief Executive.
- ☐ Particulars of the present and proposed directors, chief Executive and Company Secretary.

# Contents of a Prospectus

- ☐ The amount of minimum subscription;
- ☐ The date and time of the opening and closing of the subscription list;
- ☐ The amount payable on application for each share;
- ☐ The number, description and amount of share capital issued within the two preceding years along with the amount of premium or discount, if any;
- ☐ Name of the underwriters, if any along with opinion of Directors as to financial soundness of the company;

# Contents of a Prospectus

- ☐ The name and address of Auditors and Legal Advisors;
- ☐ The amount of preliminary expenses;
- ☐ The right of voting at meetings of the company;
- ☐ Particulars of capitalization of any reserves or profits if any;
- ☐ Particulars of surplus on revaluation of the assets and the manner in which such surplus has been applied, adjusted or treated.

# Annexures to the Prospectus

With respect to initial offers to the public, the prospectus shall include -

- ☐ An Accountant's report confirming compliance by the Issuer of the financial disclosures prescribed under Regulation 10(1); and
- ☐ The scope of the engagement is governed by the Intentional Standards on Related Services 4410-Engagements to Compile Financial Statements.

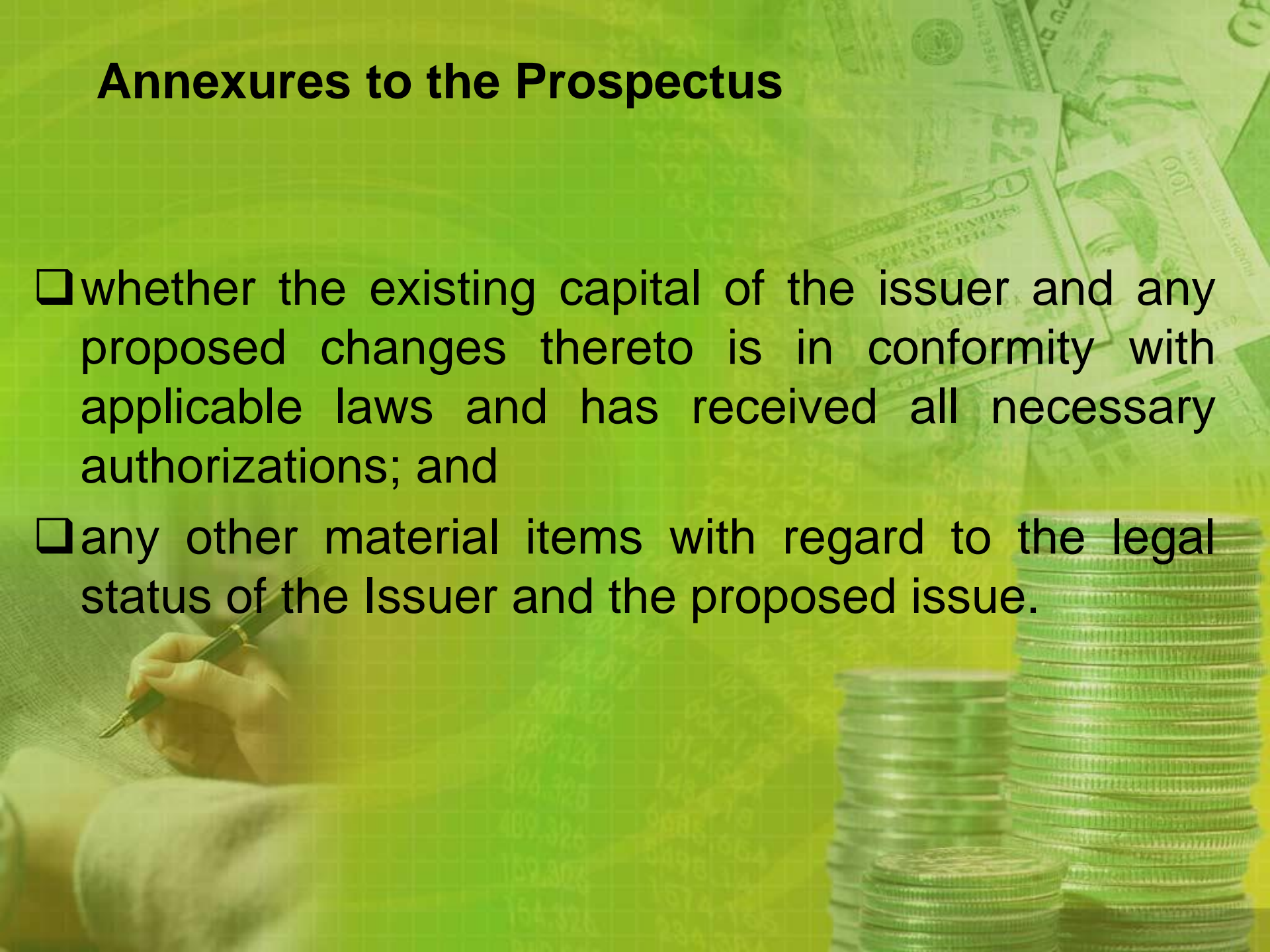
# Annexures to the Prospectus

A legal opinion which shall include but not be limited to the following -

- ☐ whether all licences and consents required to perform the business or proposed business of the issuer have been duly obtained;
- ☐ the validity of evidence of ownership of land, plant and equipment and other important and relevant assets of the issuer;
- ☐ any agreements or contracts with respect to the proposed issue of securities
- ☐ any material litigation, prosecution or other civil or criminal legal action in which the issuer or any of its director is involved

# Annexures to the Prospectus

- ☐ whether the existing capital of the issuer and any proposed changes thereto is in conformity with applicable laws and has received all necessary authorizations; and
- ☐ any other material items with regard to the legal status of the Issuer and the proposed issue.



# Approval Process

- ☐ In case of a listed company approval of the CMA must be obtained within sixty days before the date of issue of the Prospectus.
- ☐ A copy of the Prospectus must be sent to the Registrar of companies for registration before the issue of the Prospectus.
- ☐ The Registrar of companies shall not register the Prospectus unless the above requirements have been complied with.



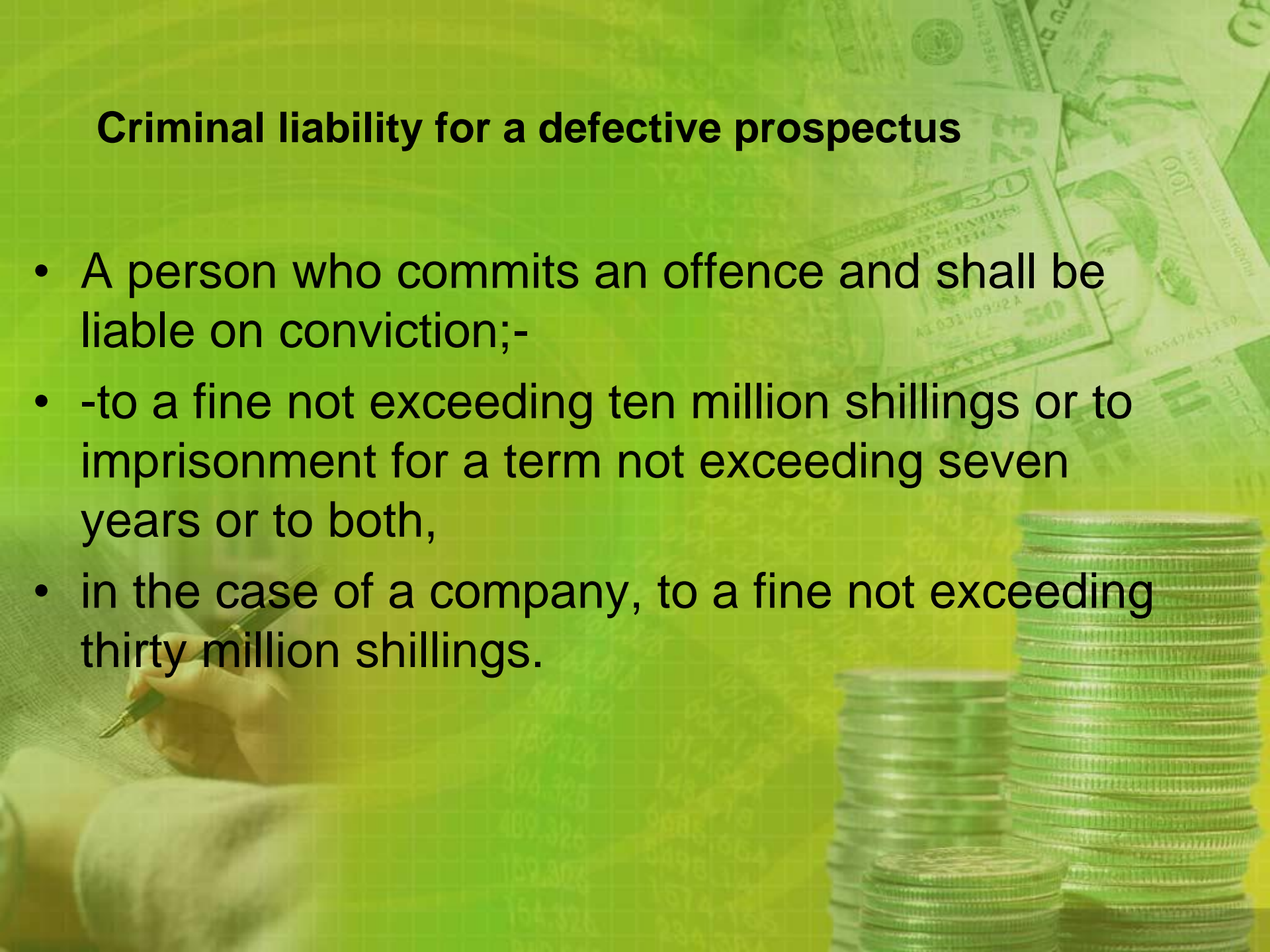
## **Liabilities for Misstatement in a prospectus**

No person shall be liable for compensation of loss or damage if he proves that:

- a) He withdrew his consent to become the Director before the issue of the Prospectus; or
- b) The Prospectus was issued without his knowledge; or
- c) After the issue of the Prospectus and before allotment , he became aware that the Prospectus was untrue and withdrew his consent and gave a public notice of the withdrawal; or
- d) As regards the untrue statement, the expert believes on reasonable grounds that the statement was true, correct and fair representation.

## **Criminal liability for a defective prospectus**

- A person who commits an offence and shall be liable on conviction;-
- -to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding seven years or to both,
- in the case of a company, to a fine not exceeding thirty million shillings.



# RIGHTS ISSUE



# Rights Issues

- ☐ A Rights Issue is a right to buy additional securities in a company made to the company's existing shareholders.
- ☐ It is a non-dilutive pro rata cash call from existing shareholders.
- ☐ The disclosure requirements for a rights issue are stipulated in the **“the Capital Markets (Securities) (public offers, listing and disclosures) Regulations, 2002. Fourth Schedule: Disclosure requirements for additional issues (Rights, scrip dividend and capitalization issues and open offers.)**
- ☐ The Issuer shall appoint a transaction adviser (investment bank) to spearhead the listing process.
- ☐ The Issuer is expected to issue a Prospectus to the public disclosing the purpose of the Issue among other details of the transactions.

## Process of a Rights Issue

- ❑ An issuer intending to make an additional issue should make an announcement within twenty-four hours from the board's resolution to recommend the additional issue to the shareholders and such announcement shall state that the issue is subject to the approval of the shareholders and the Capital Markets Authority.
- ❑ The Issuer shall fix the closing date for the receipt of applications for, and acceptance of the new shares not later than thirty days after the books closing date.
- ❑ An issuer shall issue to the persons entitled to a Rights issue within ten days after a books closing date:
  - (a) letter of entitlement of rights; and
  - (b) provisional letter of allotment incorporating form of acceptance; request for splits ; form of renunciation; and excess shares application form.

## Rights Issue Time Table

The Rights Issue timetable shall contain the following disclosures

- ☐ books closure date to determine rights entitlement;
- ☐ last day for splitting;
- ☐ last day for exercise of the Rights;
- ☐ last day for renunciation of the Rights;
- ☐ last day for application of additional shares; and
- ☐ Rights Issue ratio, date and basis of determining the price of the new shares.

## Rights Issue Application

An application for rights issue shall be accompanied by the following:

- ☐ Information about the management of the applicant;
- ☐ A statement on any important development(s) affecting the applicant or its business since the latest annual report of the applicant;
- ☐ If the applicant's securities have been suspended, provide details of the same;
- ☐ If the shares to be listed are to be issued in connection with the acquisition of a controlling interest in, or of all the assets subject to a liability of another company and that company's profit and loss accounts to the date of the last balance sheet supplemented by the latest available interim statements;
- ☐ One copy of each contract, plan or agreement pursuant to which the shares applied are to be issued;
- ☐ The expected net proceeds and the application of the funds;
- ☐ If any underwriting agreement exists, a copy of such Agreement shall be submitted to the Capital Markets Authority;
- ☐ The names and addresses of the Auditors who have audited the accounts of the Issuer during the preceding three years; and

# Rights Issue Application”

- ☐ If the shares applied for are to be issued in acquisition of an equity interest in another company, or properties or other assets, one copy of any engineering, geological or appraisal report, which may have been obtained in connection with the proposed acquisition;
- ☐ One copy each of all letters of approval from the relevant Government Authorities;
- ☐ A statement or estimate of the costs involved in the application divided into brokerage expenses ; approval and listing fees ; printing; advertising ; professional fees (legal, auditors, valuers); and other costs.

# Summary of Rights Issues Processed Through the NSE

Company	Shares on Issue	Year	Offer price	Sum Raised	Level
KCB	221,777,777	2008	25.00	8,122,024,075.00	146.0%
KCB	887,111,110	July 2010	17.00	12,500,000,000.00	82.5%
TPS East Africa	24,701,774	September 2010	48.00	1,185,685,152.00	135.0%
Standard Chartered	15,109,323	October 2010	165.45	2,499,837,490.00	161.0%
KPLC	488,630,245	November 2010	19.50	9,830,340,000.00	103.0%
KQ	1,477,169,549	March 2012	14.00	14,487,949,714.00	70.1%
DTB	24,455,566	June 2012	74.00	3,369,522,734	186.2%
NIC	98,724,391	September 2012	21.00	7,007,457,273.00	338.0%
CFC Stanbic Holdings	121,637,427	October 2012	33.00	4,495,719,302.00	112.0%
Standard Chartered Bank	22,080,000	October 2012	145.00	8,272,934,400.00	258.0%
Diamond Trust Bank	22,010,009	August 2014	165.00	3,631,651,485.00	440.3%
NIC Bank	42,663,040	September 2014	49.25	1,904,030,511.50	221.0%
Uchumi supermarket	99,500,000	October 2014	9.00	579,116,043.00	183.6%
HFCK	116,666,667	January 2015	30.00	9,011,836,920.00	257.0%

# ANY QUESTIONS?



Stock  
Market



Thank you