
**STATUTORY INSTRUMENTS
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S T A T U T O R Y I N S T R U M E N T S

2016 No. 5.

THE CAPITAL MARKETS (BOOK BUILDING) REGULATIONS, 2016.

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STATUTORY INSTRUMENTS

2016 No. 5.

The Capital Markets (Book Building) Regulations, 2016

(Under section 101 of the Capital Markets Authority Act, Cap. 84)

IN EXERCISE of the powers conferred upon the Capital Markets Authority by section 101 of the Capital Markets Authority Act, these Regulations are made this 3rd day of July, 2015.

PART I—PRELIMINARY

1. Title

These Regulations may be cited as the Capital Markets (Book Building) Regulations, 2016.

2. Application

These Regulations apply to all offers of securities to the public or a section of the public that use book building to determine the price for the offer of securities.

3. Interpretation

(1) In these Regulations, unless the context otherwise requires—

“Act” means the Capital Markets Authority Act, Cap 84;

“Authority” means the Capital Markets Authority;

“book building” means a process by which a demand for securities proposed to be issued by an issuer is elicited and built up and where the price of the securities is assessed for the determination of the quantum of the securities to be issued;

“book building portion” refers to the pool of securities that is available for offer and allotment to the participating entities through book building and which are segregated from the securities to be offered at a fixed price;

"book runner" refers to the primary coordinator of the book building in debt and equity offers;

"information memorandum" means the memorandum required by the Act or these regulations to be furnished by or on behalf of an insurer, the securities of which are accepted for listing on or are the subject of an introduction to a stock exchange licensed by the Authority;

"participating entity" means a person whose ordinary business or regular activity involves the buying and selling of securities, as a principal, and includes an underwriter, a bank, and an insurance company, a fund manager, a broker, broker's representative, a dealer, dealer's representative, an investment adviser or investment adviser's representative acting as principal, subject to any exception that may be prescribed by the Authority;

"syndicate member" means market intermediaries licensed by the Authority.

(2) Any word, term or expression used in these Regulations, and which is defined in the Act, has the meaning assigned to it in the Act.

PART II—BOOK BUILDING

4. Book building portion

The portion of the securities offered to the public that are to be available for the book building shall be identified in the information memorandum as the book building portion.

5. Fixed price portion

The balance of securities constituting the offer to the public, excluding the book building portion, shall be separately identified in the information memorandum as the fixed price portion.

6. Approval of the information memorandum

(1) Every information memorandum shall be submitted to the Authority for approval prior to the opening of the book building.

(2) The information provided in an information memorandum shall comply with the requirements for a prospectus in the Capital Markets Authority (Prospectus Requirements) Regulations and with these Regulations.

(3) Subject to subregulation (2), an information memorandum shall disclose—

- (a) the size of the issue and the amounts to be raised through the book building and fixed price portions;
- (b) the criteria for bid consideration and selection in the book building process;
- (c) the duration of the book building period;
- (d) the method and process of bidding;
- (e) the price of the offer;
- (f) the number of securities to be issued; and
- (g) the names and addresses of the book runners or syndicate members who operate the bidding terminals at which bids are submitted.

(4) Notwithstanding subregulation (3), the Authority may approve an information memorandum pending inclusion of the price of the offer and the number of securities to be issued.

7. Registration of information memorandum with Uganda Registration Service Bureau

The information memorandum shall be registered with Uganda Registration Service Bureau after the approval by the Authority.

8. Book runner

(1) A book runner shall be responsible for book building.

(2) A book runner shall be appointed by the issuer from amongst persons who are licensed by the Authority to act as transaction or investment advisers and shall be identified as such in the information memorandum.

9. Circulation of information memorandum

The information memorandum approved by the Authority shall be circulated by the book runner to the participating entities inviting offers for the securities in respect of the book building portion.

10. Records of orders on book building portion

(1) A book runner shall, on receipt of the orders, maintain a record of all the participating entities.

(2) A book runner shall maintain the records of the names and number of securities ordered and the price at which a participating entity is offering to subscribe to securities under the book building portion.

11. Determination of offer price

(1) The offer price at which the securities are offered to the public shall be determined by the book runner and the issuer.

(2) The offer price shall be determined upon closure of the book building period and following a review of the orders received, in accordance with the criteria disclosed in the information memorandum.

(3) For the avoidance of doubt, the issue price for the book building portion and fixed price portion categories shall be the same.

12. Adequate arrangements to secure payment

(1) An issuer and a book runner shall ensure that adequate arrangements for funds are made by all the participating entities to support any offers lodged during the book building.

(2) The nature of the arrangement required of participating entities shall be disclosed in the information memorandum.

13. Allotment date

The information memorandum shall specify a specific date of allotment which shall apply to the book building and fixed price portions.

14. Offer of securities through book building.

(1) An issuer may offer securities through book building.

(2) An issuer may offer up to one hundred per cent of the offer securities subject, where appropriate, to compliance with the eligibility requirements for listing on a particular stock exchange.

15. Floor price or price band.

(1) The floor price or an indicative price band for the book building portion may be prescribed in the information memorandum.

(2) The information memorandum shall provide the basis for the determination of the floor price or price band in sub regulation (1).

16. Determination of securities to be offered.

The securities to be offered shall be determined based on the issue size divided by the floor price or price band.

17. Incentives prohibited.

An incentive, whether in cash or kind, shall not be paid to an investor to participate in book building.

18. Communication of allocation to participating entities

The book runner on determination of the entitlements shall communicate to the respective participating entities the number of securities which each participating entity is to be allocated within twenty four hours and a return on all allocations shall be made to the Authority within the same period.

PART III—ADDITIONAL DISCLOSURES

19. Syndicate members

(1) The information memorandum shall disclose the particulars of the syndicate members of a book runner, where more than one book runner is appointed.

(2) The rights, obligations and responsibilities of each syndicate member shall be defined in a binding agreement.

20. Statement of basis for issue price

(1) The information memorandum shall include a statement of basis for the issue price.

(2) The statement of basis for the issue price shall be stated as follows—

“The issue price has been determined by the issuer in consultation with the book runner, on the basis of assessment of demand from the participating entities for the offered securities by way of book building.”

21. Accounting ratio

(1) The information memorandum shall disclose the accounting ratio under the basis for issue price.

(2) The accounting ratio shall, where applicable be given under the basis for the issue price for each of the accounting periods for which the financial information is given.

(3) Any of the following accounting ratios may be adopted—

- (a) the earning per share, pre-issue, for the last five years, as adjusted for changes in the capital;
- (b) the price earning ratio (P/E), pre-issue and a comparison of this with the industry (P/E), where available;
- (c) the net assets in the last five years; or
- (d) the net-asset value per share based on the last balance sheet.

(4) The accounting ratio shall be calculated after giving effect to the consequent increase of capital on account of the compulsory conversions which are outstanding, and on the assumption that any outstanding option to subscribe for additional capital shall be exercised.

PART IV—METHODS AND PROCEDURE FOR BIDDING

22. Electronic bidding

(1) Bidding under the book building shall be conducted on an electronically linked transparent system of computer terminals.

(2) A syndicate member shall ensure that at least one electronically linked computer terminal is available for purposes of bidding at a location where bids may be submitted.

(3) Subject to subregulation (1) the Authority may, in writing, authorise bidding to be conducted otherwise than on an electronic system.

23. Submission of bids

(1) Bids shall be submitted in the locations specified in the information memorandum.

(2) An investor shall place bids only through syndicate member who shall accept only bids from participating entities.

24. Alteration of bids

(1) An investor shall have the right to revise a bid using the procedure prescribed in the information memorandum.

(2) Notwithstanding subregulation (1), where bidding is conducted under regulation 22 (3) an investor shall not have a right to revise bids.

25. Bidding form

(1) The issuer shall prescribe a standard bidding form.

(2) The standard bidding form shall contain information about the investor, the price and the number of securities that the investor wishes to bid for.

(3) The standard bidding forms shall be serially numbered.

(4) The bidding form shall be stamped with the date and time of issuance prior to being issued in duplicate, signed by the investor and countersigned by a syndicate member with one form retained by the investor and the other by the book runner or the syndicate member.

26. Bidding period

Bidding during book building shall be open for at least three days.

27. Display of demand.

(1) A book runner shall at the end of each day of the bidding period, display the demand for securities graphically on the computer terminals for the information of the syndicate members and the investors.

(2) A book runner shall maintain a record of the demand for securities.

PART V — ALLOCATION AND ALLOTMENT PROCEDURE

28. Allocation in case of under subscription

In case of an under subscription of securities in a category, the under subscribed portion may be allocated to the bidders in the other category, in accordance with the allocation policy disclosed in the information memorandum.

29. Allocation criteria for book building to be disclosed

The allocation of securities to investors under the book building portion shall be determined by the issuer and the book runner in accordance with criteria set out in the information memorandum.

30. Period of fixed price offer

(1) The offer period for the fixed price portion shall open within fifteen working days from the date of closure of bidding and may be extended by the Authority.

(2) The fixed price offer shall remain open for a period of at least ten working days.

31. Investors eligible to make application in fixed price offer

An investor who participates in book building shall not be barred from participating in the fixed price portion of the offer.

PART VI—MAINTENANCE OF BOOKS AND RECORDS.

32. Separate collection accounts

An issuer shall maintain two separate accounts for the collection of application fees as follows—

- (a) an account for the book building portion category; and
- (b) an account for the fixed price portion category.

33. Book runner to maintain result of the allocation process

A book runner shall maintain a final book of demand showing the result of the allocation process.

34. Records to be maintained

A book runner, any syndicate member and the participating entities involved in the book building shall maintain adequate records on the book building.

35. Power to inspect records

The Authority may inspect all records, books and documents relating to book building.

GRACE JETHRO KAVUMA,
Chairperson, Capital Markets Authority.