

(d) the period of its validity.

(4) The Registrar shall inform the applicants of the decision of the Registrar on the application not later than three months after the date on which the application was received or, if within that period the Registrar has required the applicants to furnish further information in connection with the application, from the date on which that information is furnished.

Circumstances under which an exchange license may be withdrawn

18. (1) The Registrar may cancel an exchange licence if the Registrar is satisfied that -

- (a) the securities exchange fails to commence operations within a period of one year following the grant of the licence;
- (b) the securities exchange is in continuous breach of its obligations under these regulations;
- (c) there was no compliance with the provisions of these regulations;
- (d) there was no compliance with a written directive, request, condition of requirement made by the Registrar;
- (e) the securities exchange ceases to carry on the business for which it is licensed; or
- (f) the exchange rules are not properly enforced.

(2) The Registrar shall give thirty days written notice to a licensed securities exchange of the intention of the Registrar to cancel a licence under this regulation.

(3) The securities exchange concerned shall make representations to the Registrar within the period prescribed in subregulation (2) giving reasons as to why such licence should not be cancelled.

(4) If the Registrar has revoked a licence, the Registrar shall, as soon

as possible, publish a notice of such revocation in the Government Gazette and take other means calculated to inform the public of such revocation, including, where possible, publication of the Notice in a newspaper of general circulation in Lesotho.

(5) The Registrar shall not refuse to renew a securities exchange licence on any ground, unless the Registrar has, by notice in writing, furnished the applicant with reasons for his or her proposed refusal and the applicant has had the opportunity to show cause within a period specified in the notice why such renewal should not be refused.

Contents of exchange rules

19. (1) The rules of a securities exchange shall be so designed as to ensure, to the satisfaction of the Registrar that -

- (a) a person is not admitted or allowed to continue as a member of the exchange unless -
 - (i) the person complies with the prescribed minimum requirements in regard to experience and educational qualifications and is a fit and proper person to be so admitted;
 - (ii) the directors are fit and proper persons and at least thirty five percent of the other directors are Basotho citizens;
 - (iii) a person, or in the case of a corporate body, its managing director, is a stock-broker and complies with standards of training and experience and other qualifications as may be required by the rules;
 - (iv) a person holds and maintains while being a member, such amount of capital or equivalent bank guarantees as shall be prescribed by the rules;
- (b) the capital or guarantee requirements of members are

reviewed when appropriate to ensure that risk exposures of a member are adequately covered;

- (c) adequate steps are taken against a member who contravenes or fails to comply with the provisions of these regulations, or of such rules;
- (d) a member may not resign where the securities exchange intends to investigate any matter affecting that member or any of the member's representatives for the purpose of deciding whether to expel or take other disciplinary action against that member;
- (e) trading in securities shall be efficient, honest, fair, competitive and informed and that the business of the securities exchange is carried on with due regard to the public interest;
- (f) the conditions governing dealings in securities by members of the securities exchange, and the class or classes of securities that may be dealt in by members;
- (g) there shall be established requirements and conditions for the listing, suspension and de-listing of securities and that issuers of securities listed on the securities exchange comply with its ongoing disclosure requirements so as to afford to investors proper and timely information for determining their current value;
- (h) a member who is a dealer and knowingly buys securities from a client of that member's or sells securities to such client on that member's own account and through another dealer, notifies the client concerned in writing that those securities were bought or sold by the member on that member's own account;
- (i) a qualifying right to be held by a person in order to be admitted as a member, if any, is available for acquisition by an applicant for admission, at not more than the price stated in the exchange rules;

- (j) every member who is a dealer provides, if required, sureties or security to the satisfaction of the capital market committee in an amount of not less than an amount as prescribed from time to time in the Gazette by the Registrar, for the discharge, during the first three years in which the member is entitled to carry on the business as a dealer, after the member has been excused, of the member's liabilities arising out of transactions entered into by the member in respect of securities;
- (k) members submit to the market committee audited annual financial statements within ninety days after the end of each financial year;
- (l) every member who is a stock-broker contributes to the fund referred to in regulation 24;
- (m) a member who is a dealer submits a weekly report in writing to the market committee in which -
 - (i) particulars are furnished of securities which the member is required to buy or sell for the account of a person who failed to pay for securities purchased or to deliver securities sold, within the prescribed period, but which the member has not yet purchased or sold; and
 - (ii) reasons are furnished for that member's failure to complete a purchase or sale contemplated in subparagraph (i);
- (n) the market committee monitors the operations of the securities exchange and submits -
 - (i) a yearly report to the Registrar within three months after the end of their year on the activities of the securities exchange during the previous year;
 - (ii) audited financial statements to the Registrar

within three months after the end of their financial year;

- (iii) a report to the Registrar on any other matters of importance pertaining to the functioning of the securities exchange; and
- (o) all requirements pertaining to the prohibition of insider trading, money laundering and other improper conduct are enforced.

(3) The Registrar shall within thirty days, after the Registrar has granted an exchange licence cause the exchange rules to be published in the Gazette at the expense of that securities exchange.

(4) Additions or alterations of the exchange rules shall not be valid unless they have, on application by the securities exchange and on payment of the fee prescribed by the Registrar, been approved by the Registrar, and if the Registrar approves thereof, such amendment shall come into operation on a date mentioned in the approval.

(5) Upon receipt of an application for the approval of the Registrar under subregulation (4), the Registrar shall cause to be published, at the expense of the applicant, a notice in the Gazette setting forth the proposed additions or alterations of the exchange rules.

(6) The notice referred to in subregulation (5) shall call upon all interested persons, other than members of the securities exchange concerned, who have any objections to the proposed additions or alterations to lodge their objections to the proposed additions or alterations with the Registrar within a period of thirty days from date of publication in the Government Gazette.

(7) Additions or alterations approved by the Registrar in terms of subregulation (4), (5), and (6) shall come into operation on a date mentioned in the approval.

(8) Exchange rules shall operate as a binding contract between -

- (a) the securities exchange and each exchange member; and

- (b) a member and any other member,

in terms of which each of the parties agrees to observe and perform the provisions of the exchange rules.

Functions of a securities exchange

20. (1) A securities exchange shall not carry on any other business other than the business of a securities exchange.

(2) A securities exchange -

- (a) shall enforce the exchange rules in accordance with the provisions of these regulations;
- (b) shall ensure that its members, their officer and employees comply with the provisions of these regulations and the exchange rules;
- (c) may issue directives to govern the internal affairs of the securities exchange;
- (d) shall make listing requirements, after consultation with the Registrar which prescribe -
 - (i) the manner in which securities may be listed, removed or suspended from the list;
 - (ii) the requirements with which issuers of listed securities and of securities which are intended to be listed shall comply;
 - (iii) the conduct expected of issuers of listed securities and of directors, officers and agents of such issuers;
 - (iv) the standards of disclosure and corporate governance expected of issuers of listed securities;
 - (v) trading procedures, delivery and settlement of

trades; and

- (vi) the conduct of brokerage business.
- (e) shall supervise compliance by issuers of listed securities with the listing requirements, the exchange rules and these regulations; and
- (f) may do all other things necessary, incidental or conducive to the proper operation of a securities exchange and which are not inconsistent with these regulations.

(3) The Registrar may, subject to ratification by the Capital Markets Technical Committee, temporarily take over one or more of the functions referred to in subregulation (2).

(4) Despite the provisions of any other law, a securities exchange may enter into an agreement with other exchange or organisation of securities exchange supervisors, whether domestic or foreign, to see information relating to a security, a person whose securities are listed on a securities exchange, a particular transaction, a member of the securities exchange, an officer or employee of such member, if such information is of importance to such exchange or organisation, and the disclosure is not against public interest.

Listing of securities

21. (1) A securities exchange -
- (a) shall keep a list of the securities that may be dealt in on the securities exchange;
 - (b) shall receive and consider, and may grant, defer or refuse, subject to conditions that it may determine, applications for the issue of securities to be included in the list;
 - (c) may include securities issued by it in its own list subject to the approval of and on the conditions prescribed by the Registrar;

- (d) may charge the fees provided for in the listing requirements or the exchange rules;
- (e) shall revise the list at least once during every year and submit to the Registrar in each year, a certificate that the list has been revised during that year, and may, despite any arrangement entered into before or after the commencement of this regulations under which the securities may be dealt in on the securities exchange, charge fees in respect of the revision as may be prescribed in the rules of the securities exchange.

(2) A securities exchange shall, before refusing an application to include securities in the list -

- (a) inform the issuer of its intention to refuse the application;
- (b) give the issuer the reasons for the intended refusal; and
- (c) call upon the issuer to show cause within a period specified by the securities exchange why the application should not be refused.

(3) Listing requirements are binding on issuers, their officers, employees and agents, and investor using the facilities of a securities exchange.

(4) Fees charged to issuers for the listing of securities shall, notwithstanding any other law, rank in *pari passu* with preferred creditors on the winding up of the issuer.

Removal or suspension of listing, and omission of securities from price list

22. (1) A securities exchange may, subject to these regulations, exchange rules and the listing requirements, and if it is in the public interest -

- (a) remove securities from the list or suspend the inclusion of securities in the list;
- (b) omit from a list of quotations of prices if securities

issued for publication on the securities exchange, the prices of any securities previously quoted in the list;

Provided that a transfer of the price of securities from one section of the list to another section of that list shall not be regarded as an omission as contemplated in this paragraph.

(2) A securities exchange shall, subject to subsection (3) and before a removal or suspension referred to in subregulation (1) -

- (a) inform the issuer of the securities of its intention to remove or suspend;
- (b) give the issuer the reasons for the intended removal or suspension; and
- (c) call upon the issuer to show cause, within a period specified by the securities exchange, why the removal or suspension should not be effected.

(3) If it is in the public interest, or if the listing requirements or the conditions determined by a securities exchange in respect of the listing of securities are not complied with, a securities exchange may order an immediate suspension, for a period not exceeding thirty days, which period may be extended for further period of thirty days.

(4) If the inclusion of securities in the list has been suspended in terms of this regulation, a securities exchange may, despite subregulations (1) and (3), permit members to settle transaction in respect of those securities for the sole purpose of fulfilling their obligations entered into in relation to those securities before the suspension.

(5) If an issuer requests a securities exchange to remove its securities from the list, but the securities exchange considers the securities to be eligible for continued inclusion in the list, the removal shall only be effective after the approval by the shareholders of the issuer in a manner specified by the securities exchange.

(6) If a securities exchange refuses an application for the inclusion of securities in the list as contemplated in regulation 21(1)(b), or under subreg-

ulation (1) removes securities from or suspends the inclusion of securities in the list, the issuer concerned shall notify every other exchange on which such securities are listed of the date of the refusal, removal or suspension.

(7) A licensed securities exchange may not, within a period of six months from the date referred to in subregulation (6), grant an application for the inclusion of the securities concerned in the list kept by it, or allow trading in such securities, unless the refusal, removal or suspension has been set aside on appeal by the Registrar.

(8) If a securities exchange withdraws a refusal, removal or suspension before the expiry of the period of six months, the issuer concerned shall notify every other exchange on which the securities are listed accordingly, and the prohibition contemplated in subregulation (6) lapses from the date of such withdrawal.

(9) A securities exchange referred to in sub-regulation (6) and (7) shall, if it is aware of the listing of the same securities on other exchanges, also notify those exchanges of the refusal, removal, suspension or withdrawal, as the case may be.

Disclosure of information by issuers of listed securities

23. (1) A securities exchange may, by notice in writing, require an issuer whose securities are included in the list to disclose to it, within a period specified in the notice, any information as the issuer's disposal about such securities, or about the affairs of that issuer, that is in the public interest.

(2) A securities exchange may, after giving the issuer an opportunity of making representations to it, require the issuer to disclose that information to the registered holders of the securities within a further period specified by the securities exchange.

(3) Where an issuer has an objection to the disclosure of the information to the securities exchange or the registered holders of the securities, or to both, the securities exchange may, unless the issuer obtains a court order excusing it from such disclosure, suspend such securities from its list until such time as the required disclosure has been made to the satisfaction of the securities exchange.

(4) Where an issuer discloses information in terms of this regulation to the registered holders of securities that may influence the price of those securities, the issuer shall, at the same time, cause the information to be published in the Gazette and newspaper of wide circulation.

Establishment and maintenance of an investor protection fund

24. (1) A securities exchange shall establish and maintain an investor protection fund or similar fund for the protection of investors, which shall be administered by the market committee on behalf of the securities exchange.

(2) The contributions to, and payments out of, the fund referred to in subregulation (1) shall be made in accordance with the rules of a securities exchange or rules prescribed by the Registrar.

(3) The assets of the fund referred to in subregulation (1) shall be the property of the securities exchange but shall be kept separate from all other property and shall be kept in trust for the purposes set out in these regulations.

- (4) The Registrar may make rules as to -
- (a) moneys constituting the fund;
 - (b) accounts to be maintained by the fund;
 - (c) administration of the fund and powers of the market committee administering the fund;
 - (d) minimum amount to be kept in the fund and provisions if the fund is reduced below the minimum amount;
 - (e) levies that may be imposed to meet liabilities of the fund;
 - (f) the power of a securities exchange to make advances to the fund;
 - (g) investment of moneys of the fund;
 - (h) manner of lodging claims against the fund;

- (i) power of the market committee to settle claims;
- (j) power of the market committee to enter into contracts of insurance for purposes of the fund; or
- (k) other matter incidental to the establishment and maintenance of the fund.

(5) Where the registrar is satisfied that adequate arrangements other than those required under subregulation (1) for the protection of investors exist, the Registrar may exempt securities exchange from the requirements of that subregulation.

(6) On payment out of the fund referred to in subregulation (1) of any moneys in respect of any claim under this regulation, the securities exchange shall be subrogated to the extent of such payment to all the rights and remedies of the claimant in relation to the loss suffered by him by reason of the defalcation on which the claim was based.

**PART VI - LICENSING OF BROKER-DEALERS,
STOCK BROKERS, DEALERS, INVESTMENT ADVISERS
AND THEIR REPRESENTATIVES**

Stock Broker's or Broker-Dealer's or Dealer's licence

25. (1) A person shall not carry on a business of stock broking or dealing in securities or hold himself out as carrying on such a business unless the person is the holder of a stock broker's, broker-dealer's or dealer's licence issued under this Part.

(2) A person who contravenes subregulation (1) commits an offence and is liable on conviction to a fine not exceeding two hundred thousand Maloti or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Stock Broker's or Broker-Dealer's or Dealer's representative licence

26. (1) A person shall not act as a stock broker's, broker-dealer's or dealer's representative or hold himself or herself as such unless that person is the holder of a representative's licence issued under this Part.

(2) A person who contravenes subregulation (1) commits an offence and is liable on conviction to a fine not exceeding two hundred thousand Maloti or to imprisonment for a term not exceeding two years or to both fine and imprisonment.

Investment adviser's licence

27. (1) A person shall not act as an investment adviser or hold himself out to be an investment adviser unless that person is the holder of an investment adviser's licence under this Part.

(2) A person who contravenes subregulation (1) commits an offence and is liable on conviction to a fine not exceeding two hundred thousand Maloti or to imprisonment for a term not exceeding two years or to both fine and imprisonment.

Investment adviser's representative licence

28. (1) A person shall not act as an investment adviser's representative or hold himself or herself out to be an investment advisor's representative unless that person is the holder of an investment adviser's representative's licence issued under this Part.

(2) A person who contravenes subregulation (1) commits an offence and is liable on conviction to a fine not exceeding two hundred thousand Maloti or to imprisonment for a term not exceeding one year or to both fine and imprisonment.

Application for a licence or renewal of a licence

29. (1) An application for the renewal of a licence shall be made to the Registrar in the prescribed form and shall be accompanied by the prescribed fee and, in the case of an application for renewal of a licence, such application shall be made not later than one month before the expiry of the licence.

(2) The applicant may be required to supply the Registrar with such further information, in relation to the application, as the Registrar considers necessary.

(3) The Registrar shall not refuse to grant or renew a licence with-

out first giving the applicant or the holder of a licence, an opportunity of being heard.

Grant of stock broker's, broker-dealer, dealer's licence or investment adviser's licence

30. (1) A stock broker, broker-dealer or dealer's licence shall only be granted to a company incorporated under the Companies Act of 2011.

(2) An investment advisor's licence may be granted to an individual taking into account -

- (a) the educational and other experience of the person;
- (b) ability of the person to provide investment advice honestly and fairly;
- (c) reputation, character, financial integrity and reliability of the person.

(3) Where an application is made for the grant or renewal of a stock broker's, broker-dealer's, dealer's licence or investment adviser's licence, the Registrar shall, subject to regulation 29(3) refuse the application if -

- (a) in the case of an investment advisor who is a natural person, the -
 - (i) applicant has been declared insolvent whether in Lesotho or elsewhere;
 - (ii) applicant is not ordinarily resident in Lesotho;
 - (iii) applicant has been convicted, either in Lesotho or elsewhere, within a period of ten years immediately preceding the date on which the application was made, of an offence involving fraud or dishonesty;
 - (iv) Registrar is not satisfied as to the educational qualification or experience of the applicant

-
- having regard to the nature of the duties of a holder of an investment adviser's licence;
- (v) Registrar has reason to believe that the applicant is not a fit and proper person; or,
 - (vi) Registrar has reason to believe that the applicant will not perform the duties of a holder of an investment adviser's licence efficiently, honestly and fairly; or
- (b) in the case of an applicant that is a company the -
- (i) company is in the course of being wound-up under the Companies Act of 2011;
 - (ii) company has, whether in Lesotho or outside Lesotho, entered into a compromise or scheme of arrangement with its creditors, being a compromise, scheme or arrangement that is still in operation; or
 - (iii) Registrar has reasonable cause to believe that the officers of the applicant who are to perform duties in connection with the holding of the stock broker's, broker-dealer's, dealer's or investment adviser's licence, as the case may be, are not fit and proper persons.

Criteria for determining fit and proper persons

31. (1) For the purposes of these regulations, in considering whether a person is a fit and proper person, the Registrar shall have regard to the -
- (a) financial status of the person;
 - (b) educational or other qualifications or experience of the person having regard to the nature of the application;
 - (c) ability to perform his proposed function efficiently, hon-

estly and fairly; and,

- (d) reputation, character, financial integrity and reliability of the person.

(2) For the purposes of these regulations, the Registrar may have regard to information in possession of the Registrar, whether furnished by the applicant or not.

(3) For the purposes of subregulation (1), the Registrar may take into account any matter relating to -

- (a) a person who is or is to be employed by, or associated with, the applicant for the purposes of the proposed business to which the application relates;
- (b) a person who will be acting as a representative in relation to such business; or
- (c) where the applicant is a company, a substantial shareholder, director or officer of the company, other company in the same group of companies or to director or officer of such company.

(4) In subregulation (3), a “substantial shareholder” means, in relation to a company, a person who has an interest in shares in the company -

- (a) the nominal value of which is equal to or more than twenty five percent or such other percentage as the Registrar may, by notice in the Gazette determine, of the issued share capital of the company; or
- (b) which entitle the person to exercise or control the exercise of twenty-five percent or such other percentage as the Registrar may, by notice in the Gazette determine, or more of the voting power at a general meeting of the company.

Grant of representative's licence

32. Subject to regulation 29(3), the Registrar shall only grant or renew a stock broker's, broker-dealer's, investment adviser's or dealer's representative's, if, after consideration of the application, the Registrar does not have reason to believe that the applicant will not perform the duties of the holder of a dealer's representative's or an investment adviser's representative's licence, as the case may be, efficiently, honestly and fairly.

Power of Registrar to impose conditions or restrictions

33. (1) The Registrar may grant or renew a licence under this Part subject to such conditions or restrictions as the Registrar thinks fit and the Registrar may, at any time by written notice to a licence holder, vary any condition or restriction or impose further conditions or restrictions.

(2) Without limiting the generality of sub-regulation (1), the Registrar may, in granting or renewing an investment adviser's licence, impose such conditions or restrictions as the Registrar thinks fit as to the class or classes of business that a dealer may carry on.

(3) Without limiting the generality of sub-regulation (1), the Registrar may, in granting or renewing an investment adviser's licence, impose such conditions or restrictions as to the class or classes of business that an investment adviser may carry on, including a condition or restriction that the investment adviser shall -

- (a) only carry on the class of business of advising others concerning securities;
- (b) only carry on the class of business of issuing or promulgating analysis or reports concerning securities;
- (c) subject to the execution of a mandate in the form prescribed by the Registrar, only carry on a class of business involving the management of a portfolio of securities on behalf of clients for investment purposes; or
- (d) only carry on any of the classes of business in paragraphs (a), (b) and (c) in combination with each other.

(4) A person who contravenes or fails to comply with any condition of, or restriction in, a licence granted to that person commits an offence and is liable on conviction to a fine not exceeding one hundred and fifty thousand Maloti and, in the case of a continuing offence, to a further fine of ten thousand Maloti for every day or part thereof during which the offence continues.

Power of the Registrar to issue written notices

34. (1) Where it appears to be necessary or expedient in the public interest or in the interest of the securities industry, the Registrar may, by notice in writing, direct any holder or class of holders of a stock broker's, broker-dealer, dealer's licence, an investment adviser's licence or a representative's licence to comply with such requirements as the Registrar may specify in the notice.

(2) Without prejudice to the generality of subregulation (1), any requirement specified in a notice issued by the Registrar under that subregulation may relate to -

- (a) the standards to be maintained by the person concerned in the conduct of that person's business; and
- (b) the type and frequency of financial returns and other information to be submitted to the Registrar.

(3) A holder of a stock broker's, broker-dealer's, dealer's licence, an investment adviser's licence or a representative's licence who contravenes or fails to comply with any of the requirements specified in a notice issued under subregulation (1) commits an offence and is liable on conviction to a fine not exceeding twenty thousand Maloti, and in the case of a continuing offence, to a further fine of five thousand Maloti for every day or part thereof during which the offence continues.

Revocation and suspension of licences

35. (1) A licence under this Part shall be taken to be revoked, in the case of -

- (a) a natural person, if that person dies; or
- (b) a company, if the company has been wound-up.

-
- (2) The Registrar may revoke a licence -
- (a) in the case of a natural person if -
- (i) a writ of execution in respect of the person has not been satisfied;
 - (ii) a person ceases to carry on the business for which the person was licensed;
 - (iii) a person has been declared insolvent in Lesotho or elsewhere;
 - (iv) in the case of a representative, the licence of the investment adviser in relation to whom the licence was granted, is revoked; or
 - (vi) a person is convicted or fails to comply with any condition or restriction applicable in respect of the licence or any other provision in these regulations; or
- (b) in the case of a company if -
- (i) it is being or will be wound-up;
 - (ii) a writ of execution in respect of it has not been satisfied;
 - (iii) a liquidator has been appointed whether by the court or creditors in respect of the company's property;
 - (iv) it has entered into any composition or arrangement with its creditors;
 - (v) it ceases to carry on the business for which it was licensed;
 - (vi) the Registrar has reason to believe that the com-

pany or its directors or employee has not performed his duties efficiently, honestly or fairly;
or

- (vii) the company contravenes or fails to comply with conditions or restrictions applicable in respect of the licence or other provisions in these regulations.

(3) In a case to which subregulation (2) applies, the Registrar may, instead of revoking a licence, suspend the licence for a specific period.

(4) The Registrar shall not revoke or suspend a licence under subregulation (2) or (3) without first giving the person an opportunity to be heard.

(5) A person whose licence is revoked or suspended under this regulation shall, for the purpose of this Part, be taken not to be licensed as from the date that the Registrar revokes or suspends the licence, as the case may be.

(6) A revocation or suspension of a licence shall not operate so as to -

- (a) avoid or affect an agreement, transaction or arrangement relating to the trading in securities entered into by a person, whether the agreement, transaction or arrangement was entered into before or after the revocation or suspension of the licence;
- (b) affect a right, obligation or liability arising under an agreement, transaction or arrangement.

Membership of a securities exchange

36. (1) A person who holds a stock broker's, broker-dealer or dealer's licence shall be eligible for membership of a securities exchange.

(2) A natural person who is not ordinarily operating his business in Lesotho shall not become a member of a licensed securities exchange.

(3) A person shall not be admitted or allowed to continue as a member of a licensed securities exchange unless, at the time of a person's admission