

# THE CAPITAL MARKETS AND SECURITIES (COLLECTIVE INVESTMENT SCHEMES REAL ESTATE INVESTMENT TRUSTS) RULES, 2011

## RULES

Made under Regulation 60 (2) of the CMS(CIS) Regulations 1997

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## PREAMBLE

**WHEREAS** Regulation 60(2) of the Capital Markets and Securities (Collective Investment Schemes) Regulations, 1997 confers power to the Authority to issue Rules relating to the operations and investment by collective investment schemes in any particular objectives, market, industry or sector;

**AND WHEREAS** these rules set out requirements to be complied with by any person intending to establish a real estate investment trust in Tanzania and issue, offer or invite any person to subscribe for or purchase units of the real estate investment trust.

**AND WHEREAS** these rules are aimed at providing a regulatory environment that will protect the interests of the investing public and facilitate the orderly development of the real estate investment trust industry in .

**AND WHEREAS**, these Rules are also aimed at prescribing the nature and manner of the operation of real estate investment trusts established in Tanzania;

**AND WHEREAS** these Rules, read together with any provisions of the law relating to Collective Investment Schemes form the regulatory framework for real estate investment trusts in Tanzania;

**AND WHEREAS** all parties to a real estate investment trust are expected to be guided by the letter and spirit of the regulatory requirements failure to do which, the Authority may take action, as is empowered by the Capital Markets and Securities Act.

**NOW THEREFORE** these rules provide as follows:

## **PART I PRELIMINARY PROVISIONS**

- |                                     |  |
|-------------------------------------|--|
| citation                            | <b>1.</b> These Rules may be cited as the Capital Markets and Securities (Collective Investment Schemes) (Real Estate Investment Trusts) Rules, 2011.  |
| Interpre-<br>-tation<br><br>Cap. 79 | <b>2.</b> In these Rules, unless the context require otherwise,<br><br>“Act” means the Capital Markets and Securities Act;<br><br>“Authority” means the Authority established under the Act;<br><br>“adviser” means any person who provides advice/ information to the applicant where such advice/information is submitted to the Authority with any proposal;<br><br>“advertisement” has the same meaning ascribed to it under the Act;<br><br>“assets of the scheme or fund” means assets of the scheme and all amounts due to the fund and includes land or buildings and any interest incidental to ownership of real estate; |

“associated person” means persons who have a common objective pursuant to an agreement or understanding (formal or informal) and who directly or indirectly cooperate and unless the contrary is proved, includes a person who-

- (a) directly or indirectly, by himself, or in combination with other persons, exercises control over the management company or the Trustee, as the case may be, or
- (b) in respect of whom the management company or the trust, as the case may be directly or indirectly, by itself, or in combination with other persons, exercises control, or
- (c) whose director, officer or employee is a director, officer or employee of the management company or the Trustee, as the case may be;

“cancellation price for units” means the price payable by the real estate investment Trust for the cancellation of a unit in the fund.

G.N. No:  
770 of 1997

“CIS regulations” means the Capital Markets and Securities(Collective Investment Schemes) Regulations, 1997;

“close-ended fund” means a scheme with limited number of units in issue and in which the period of maturity of the scheme is specified and there is no provision for repurchase before the expiry of the maturity of the scheme;

“collective investment scheme” has the meaning ascribed to it under the Act;”

“credit rating agency” has a meaning ascribed to it under the Act;

“creation price for units” means the price payable to the real estate investment trust for the creation of a unit in the fund.

“debenture” includes –

- (i) a long term security issued by a company yielding an interest;
- (ii) bonds and other securities of a company whether constituting a charge on the assets of the company or not;
- (iii) any transferable security of a company whereby a company can raise finance in the form of loan capital instead of share capital.

“deed” means agreement between the management company and the

trustee relating to the property ownership or legal right on behalf of unit holders;

“eligible market” means a securities market that–

(a) is regulated by a regulatory authority;

(b) operates regularly

(c) is open to the public; and

(d) has adequate liquidity for the purposes of the fund in question

“financial statements” has the meaning ascribe to it by IFRS.

“fund” means a real estate investment scheme authorized under the Act constituted to invest in real estate with the aim to provide returns to holders derived mainly from the rental income or capital gains of the real estate;

“fund’s property” means assets of the fund;

“fund manager” means a person who holds an Investment Adviser’s Representative License to carry on the regulated activity of fund management.

“fund management” a professional practice of administering a quantity of money by providing investment advise and making investment decisions on behalf of clients or investors to meet specific investment goals;

“fund reports” means the annual and interim reports of the real estate investment trust.

“general public” means the general population as a whole or class or part of the population;

“independent member” in relation to the board of directors of a management company, the investment committee of a real estate investment trust adviser, refers to a person who is free of any relationship with the management company or the controlling or significant shareholder(s) of the management company that would otherwise interfere with the member's exercise of independent judgment. In any case, a period of six months must elapse before a person who was previously connected to the management company or controlling/significant shareholder(s) can be deemed to be independent. The following is a non-exhaustive list of persons that would not be considered as an “independent member”:

(a) officer of the management company;



- (b) officer of the trustee of the fund;
- (c) officer of any body corporate or unincorporate that has power to appoint or make recommendations towards the appointment of board of directors of the management company, members of the investment committee of the real estate investment trust;
- (d) person related to an officer of the management company or trustee of the fund;
- (e) person representing or seen to be representing any body corporate or unincorporate with a controlling interest in the management company; or
- (f) person who, within six months prior to his appointment as independent member, has derived any remuneration or benefit (other than retirement benefit) from the management company or any body corporate or unincorporate that has power to appoint or make recommendations towards the appointment of board of directors of the management company and members of the investment committee;

“interested persons” includes directors, major shareholders and chief executive officer of the management company;

“Lead Adviser” means the adviser responsible for making submissions to the Authority for approval under these Rules;

“liabilities of the fund” include all amounts payable by the fund, accrued expenses and taxes, and any appropriate provisions for contingencies;

“licensed institution” means any institution licensed or deemed to be licensed under the Act;

“major shareholder” means a person who has an interest or unit holder interests in one or, more voting shares/units in a company/fund and the nominal amount of that share/unit, or the aggregate of the nominal amounts of those shares/units, is-

- (a) equal to or more than 10% of the aggregate of the nominal amounts of all voting shares/units in the company/ fund; or
- (b) equal to or more than 5% of the aggregate of the nominal mounts of all voting shares/units in the company/ fund where such person is the

largest shareholder/unit holder of the company/ fund.

“management company” shall have the same meaning as the term “manager” prescribed in the Act;

“management expense ratio” means the ratio of the sum of fees and the recovered expenses of the fund to the average value of the fund calculated on a daily basis expressed as follows:

$$\frac{\text{Fees of the fund + Recovered expenses of the fund}}{\text{Average value of the fund calculated on a daily basis}} \times 100$$

Where:

**Fees = All ongoing fees deducted/ deductible directly from the fund in respect of the period covered by the management expense ratio, expressed as a fixed amount, calculated on a daily basis. This would include the annual management fee, the annual trustee fee and any other fees deducted/deductible directly from the fund;**

**Recovered**

**Expenses = All expenses recovered from/ expenses charged to the fund, as a result of the expenses Incurred by the operation of the fund, expressed as a fixed amount. This should not include expenses that would otherwise be incurred by an individual investor (e.g. brokerage, taxes and levies); and**

**Average  
Value of**

**Fund = The NAV of the fund, including value of net income value of the fund, the unit less expenses on an accrued basis, in respect of the period covered by the management expense ratio, calculated on a daily basis.**

“Net Asset Value” (NAV) means the value of all the fund’s assets less the value of all the fund’s liabilities at the valuation point;

“non-real estate assets”- means

- a) listed shares issued by non-property companies;
- b) debt securities issued by, or fully guaranteed by the government; and
- c) commercial papers or other debt securities issued by companies or institutions with ratings as may be prescribed by the Authority

“NAV per unit” means the NAV of the fund divided by the number of units in circulation, at the valuation point;

“open ended scheme” has the same meaning ascribed to it in the Act;

“ordinary resolution” means a resolution passed by a simple majority of votes validly cast at a meeting of unit holders;

“partner in relation to a director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund or person connected with a director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund, means such person who falls within any of the following categories:

- (a) a person with whom the director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund or person connected with a director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund, is in or proposes to enter into partnership with.
- (b) A person with whom the director, chief executive officer or major shareholder of the management company, the management company trustee or major unit holder of the fund or person connected with a director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund, has entered into or proposes to enter into a joint venture, whether incorporated into or not;

“person connected” in relation to a director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund, means such person who falls under any of the following categories:

- (a) a family member of the director, chief executive officer, major shareholder of the management company, or major unit holder of the fund;
- (b) a trustee of a trust (other than a trustee for an employee share scheme or pension scheme) under which the director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund; or a family member of the director, chief executive officer or major shareholder of the management company or major unit holder, is the sole beneficiary;

- (c) a partner of the director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund; or a partner of a person connected with that director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund;
- (d) a person who is accustomed or under obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund;
- (e) a person in accordance with whose directions, instructions or wishes the director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund, is accustomed or is under obligation, whether formal or informal, to act;
- (f) a body corporate or its directors which/who is/are accustomed or under obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund;
- (g) a body corporate or its directors whose directions, instructions or wishes the director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund, is accustomed or under obligation, whether formal or informal, to act;
- (h) a body corporate in which the director, chief executive officer or major shareholder of the management company, the management company, trustee or major unit holder of the fund; and/or persons connected to him are entitled to exercise or control the exercise of, not less than 15% of the votes attached to the voting shares in the body corporate; or
- (i) a body corporate which is a related corporation;

“property companies” means companies whose core activities are real estate related;

“ real estate investment trust” or “property trust fund” means unit trust

scheme that invests or proposes to invest primarily in income-generating real estate;

“real estate” means land and all things that are a natural part of the land as well as things attached to the land;

“real estate-related assets” includes units of other real estate investment assets trusts, listed securities of and issued by property companies, listed or unlisted debt securities of and issued by property companies, and real estate-related asset backed securities;

“related party” means—

- (a) the management company of the fund;
- (b) the trustee of the fund;
- (c) a major unit holder of the fund;
- (d) a director, chief executive officer or major shareholder of the management company; or
- (e) a person connected with any director, chief executive officer, or major shareholder of the management company, or a person connected with the management company, trustee or a major unit holder of the fund;

“restricted offer for sale means an invitation to an identifiable group/ pool of investors by, or on behalf of, an existing unit holder to purchase units of the fund already in issue or allotted;

“restricted offer for subscription” means an invitation to an identifiable group/ pool of investors by, or on behalf of, an existing unit holder to subscribe for units of the fund not yet in issue or allotted;

“securities” has the same meaning ascribed to it under the Act;

“single-purpose companies” mean unlisted companies whose principal assets comprise real estate;

“total asset value” means the value of all the fund’s assets based on the latest valuation;

“Unit” has the same meaning ascribed to it under the Act;

“unit trust fund” has the same meaning as the expression “unit trust

scheme” in the Act;

(2) Reference to “days” in these Rules shall be taken to mean calendar days unless otherwise stated and any time period stated in these Rules where no specific method for determining the time period is set out, the period starts on the day after the day of the event.

#### Application

3.-(1) Any person engaged in dealing, marketing and distribution activities (including issuance of advertisements and promotional materials) or online transactions/activities relating to real estate investment trusts, shall observe and ensure compliance with the following laws(where applicable):

(a) the Capital Market and Securities Act Parts XI and XII; and

(b) the Capital Markets and Securities Collective Investment Schemes Regulations, 1997.

(2) The Authority shall not consider an application for authorization of a real estate investment fund, Trustee or management company unless -the provisions of section 117 and 118 of the Act are complied with.

(3) As a transition arrangement, and notwithstanding the provisions governing open ended real estate investment funds in these regulations, only close ended funds shall be approved by the Authority until such time as the Authority considers appropriate to approve open ended real investment fund.

(4) In addition to sub rule (1) of this rule and other rules concerning the eligibility of the scheme-

(a) the management company have a minimum shareholders’ funds of TZS one billion at all times.

(b) the Trustee shall have a minimum issued and paid-up capital required as core capital for commercial bank under the Financial Institutions under the Banking and Financial Institutions Act,2006.

(5) Where an application made under these regulations for grant of registration does not satisfy the conditions specified in these rules, the Authority may reject the application after giving the applicant a reasonable opportunity of being heard and inform the applicant of the same.

(6) The decision of the Authority to refuse to grant authorization pursuant to sub rule (4) of this rule, shall be communicated to the applicant, in writing, by the Authority within 30 days of such decision stating therein the grounds on which the application has been rejected.

## PART II

### MANAGEMENT COMPANY

#### *a) Approval, functions, eligibility personnel and responsibility of a Management company*

Scope, approval  
and  
authorization

**4.(1)** As prescribed under sections 117 of the Act only a management company approved by the Authority shall act as a management company to a real estate investment trust.

**(2)** For the purpose of these rules, a management company is a company that has been authorized by the Authority whose object is to –

- (a) establish or organize a real estate investment trust;
- (b) issue, offer for subscription, make an invitation to subscribe for or purchase units of the real estate investment scheme; and
- (c) operate, manage and administers the real estate investment scheme.

Approval not to be  
deemed an approval  
of other securities  
business

**5.** An approval to operate and administer a real estate investment trust under these Rules shall not be deemed to authorize any person to carry out any other securities business or any other regulated activity without a licence duly granted by the Authority .

Eligibility  
Requirements

**6.** A management company shall–

Cap. 212

- (a) be a company incorporated in Tanzania under the Companies Act;
- (b) except where the management company has previously been authorized by the Authority, be either a subsidiary of–
  - (i) a company involved in the financial services industry; or
  - (ii) a property-development company; or
  - (iii) a property-investment holding company; or
  - (iv) any other institution which the Authority may permit.
- (c) have a minimum of 30% Tanzanian equity; and

- (d) have a minimum shareholders' funds of TZS one billion at all times.

Reconstruction,  
Amalgamation and  
Change in  
Shareholding

7. Any scheme of reconstruction or amalgamation in which the management company is a party, or any change in the shareholding of the management company, requires the Authority's prior approval on its continuing eligibility to be a management company of a real estate investment trust.

Directors

8.-(1) The board of directors of a management company shall comprise at least two independent members, while maintaining a minimum ratio of at least one-third independent members at all times.

(2) The independent directors of a management company shall, in addition to their duties and responsibilities as directors, represent and safeguard the interests of unit holders.

(3) The persons appointed as directors shall-

- (a) be of good repute and character;
- (b) observe high standards of integrity and fair dealing in carrying out their duties and responsibilities;
- (c) act with due skill, care and diligence in carrying out their duties and functions in accordance with these Rules; and
- (d) possess the necessary qualifications, expertise and experience, particularly in the respective fields to perform their duties and responsibilities in a fit and proper manner.

(4) The persons appointed as directors shall not have been involved in any unethical/ inappropriate practice.

A person shall not serve as a Director of a Management Company unless a no objection from the Authority has been obtained .

(5) The persons involved in the following events shall be subject to a disqualification:

- (a) where a petition has been filed against them under bankruptcy laws or the persons are declared bankrupt;
- (b) where criminal proceeding and conviction have been levied against



them for fraud, dishonesty or any other offences punishable with imprisonment of one year or more, anywhere in the world;

- (c) where adverse finding against them has been found following any inquiry/investigation carried out by any government/ statutory authority or body.

(6) It shall be the responsibility of the management company to assess the ability of the persons to carry out the duties and responsibilities required of them.

(7) In the case of a newly established management company, this responsibility shall lie with the holding company and/or promoter and its board of directors.

(8) Where any director becomes subject to any disqualification or becomes otherwise unfit to hold office, the management company shall ensure that the person vacates the position immediately and the management company shall notify the Authority of any disqualification immediately when the position becomes vacant.

(9) A director of a management company shall not–

- (a) hold office as a director of more than one management company at any one time; and
- (b) hold office as a member of the investment committee of funds operated by another management company.

***b) key personnel***

Chief Executive  
Officer

**9.-(1)** A management company shall appoint a chief executive officer who shall upon obtaining the Authority's no objection, be a full-time officer.

(2) The person appointed shall comply with the fit and proper criteria stipulated under Rules 8(3) and (4).

(3) Where the chief executive officer becomes subject to any disqualification or becomes otherwise unfit to hold office, the board of directors of the management company shall ensure that the person vacates the position immediately.

(4) The management company shall notify the Authority immediately of any disqualification and when the position becomes vacant.

Designated Person  
Responsible for the  
Fund

**10.-(1)** A management company shall appoint an individual as a designated person responsible for the real estate portfolio management of the

fund, who shall possess the necessary experience and expertise in real estate investment.

(2) The management company shall ensure that a designated person responsible for the fund management function is appointed, whether the function is undertaken internally within the management company or externally.

(3) A designated person appointed for the purpose of sub Rule (1) of this Rule, shall be a holder of a Fund Manager Representative's Licence issued by the Authority to carry on the regulated activity of fund management.

(4) Where the designated person is in a foreign-incorporated fund management company, the designated person must be licensed/registered/approved/authorized to carry on the activity of fund management by the Authority and the relevant regulator in his home jurisdiction.

Compliance Officer

**11.**-(1) A management company shall appoint a person responsible for ensuring compliance with the deed, Offer Document, these Rules, securities law and any other law.

(2) The compliance officer shall report to the board of directors.

(3) The Compliance officer shall independently, within 24 hours report to the Authority any breach occasioned by the fund.

Property Manager

**12.**-(1) A management company shall appoint a property manager approved by the trustee to manage the real estates of the fund.

(2) The property manager appointed shall possess the necessary experience and expertise in real estate management.

Internal Audit

**13.**-(1) A management company shall maintain an internal audit function to report on the adequacy, effectiveness and efficiency of the management, operations, risk management, and internal controls.

(2) The internal audit shall, among others–

(a) follow clearly defined terms of the internal audit framework which sets out the scope, objectives, approach, and reporting requirements;

(b) adequately plan, control and record all audit work performed, and record the findings, conclusions, and recommendations; and

(c) highlight matters in the audit report, which shall be resolved satisfactorily in a timely manner.

- (d) assess operations risks and recommend mitigating measures to address the said risks.

***c) Roles and Responsibilities of a Management Company***

General

**14.**-(1) In addition to the duties stipulated under the Act and the CIS regulations, a management company shall observe, act and carry out its duties in accordance with the prescribed roles and responsibilities set out in this Part.

(2) A management company shall operate the fund and exercise its responsibilities according to the deed and prospectus, these rules and the code of conduct stipulated under the Second Schedule to these rules, securities laws, other relevant applicable laws, and acceptable and efficacious business practices within the real estate investment trust industry.

Duty to act with care and diligence

**15.**- A management company shall–

- (a) exercise the degree of care and diligence that a reasonable person would exercise in the position of a management company;
- (b) act in the best interests of unit holders and, if there is a conflict between unit holders' interests and its own interests, give priority to unit holders' interests;
- (c) observe high standards of integrity and fair dealing in managing the fund to the best and exclusive interest of unit holders;
- (d) not make improper use of information acquired through being the management company to–
  - (i) gain an advantage for itself or other person; or
  - (ii) cause detriment to unit holders in the fund;
- (e) ensure that the fund's property is–
  - (i) clearly identified as the fund's property; and
  - (ii) held separately from the assets of the management company and any other fund managed by the management company; and
- (f) comply with any other duties, not inconsistent with these rules, that is conferred on the management company by the deed.

Duty to establish and maintain risk management and controls

**16.-** A management company shall, among others—

- (a) establish and maintain risk management systems and controls to enable it to identify, assess, mitigate, control and monitor risks in relation to the fund it operates and manages;
- (b) have adequate human resource with the necessary qualification, expertise and experience to carry on business as a management company; and
- (c) have adequate and appropriate systems, procedures, and processes to undertake the business in a proper and efficient manner.

Duty to account to the trustee for loss suffered by the fund

**17.-** A management company shall account to the trustee for any loss suffered by the fund as a result of the management company's failure to exercise the degree of care and diligence required in operating and managing the fund.

Improper use of information, gaining advantage and causing detriment to unit holders

**18.-** A management company shall ensure that its officers and delegates—

- (a) do not make improper use of information acquired through being such an officer or delegate of the management company to—
  - (i) gain an advantage for himself or another person; or
  - (ii) cause detriment to unit holders in the fund;
- (b) do not make improper use of their position as such officers or delegates to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to unit holders in the fund; and
- (c) comply with any other duty or obligation as may be prescribed under the securities laws, trust laws these rules and other applicable relevant laws.

Foreign Investments

**19.-(1)** Subject to Rule 58, where investments involve real estates located outside Tanzania, the management company shall ensure that it has the necessary experience, capability, resources, and competence to deal with the legal, regulatory, and other requirements of foreign real estate investments.

**(2)** A management company shall, at a minimum, be able to demonstrate that it has the requisite competence, experience, and resources to—

- (a) analyze the issues and risks involved in foreign investments;
- (b) develop, implement, and keep up-to-date a set of effective internal controls and risk management systems to deal with existing and foreseeable risks involved in foreign investments; and
- (c) inform investors in a clear, concise, and timely manner of the investment profile and risk to the fund.

(3) A management company shall have a contingency plan that enables it to proactively respond to any urgent need that may arise in the course of its investment and management of foreign real estates and its divestment of such real estates.

(4) The CMS (Foreign Investors) Regulations, the CMS (Foreign companies Public Offer Eligibility and cross listing requirements) Regulations and the DSE foreign Investors Regulations shall apply *mutatis mutandi* to the Foreign real estate investment trust operating in Tanzania.

#### Valuation

**20.-** (1) A management company shall take all reasonable steps and exercise due diligence to ensure that the fund's property is correctly valued in line with the provisions of Part XII and First Schedule of these rules, the deed, and the offer document.

(2) For the purpose of valuing the fund's property, a management company shall not do or omit anything that would, or might confer on itself a benefit or advantage at the expense of unit holders or potential unit holders.

#### Pricing (for Unlisted Fund)

**21.-**(1) A management company shall take all reasonable steps and exercise due diligence to ensure that the fund's units are correctly priced, in line with the provisions of Part XIV of these rules, the deed, and the offer document.

(2) For the purpose of pricing the units, a management company shall not do anything that would, or might confer on itself a benefit or advantage at the expense of unit holders or potential unit holders.

#### Transactions

**22.-**(1) All transactions carried out by the management company on behalf of the fund shall be at arms length.

(2) A management company shall not act or conduct transactions in any manner that would result in unnecessary cost or risk to the fund.

Maintenance of  
Records

**23.-(1)** A management company shall maintain proper accounting records and other records as are necessary—

- (a) to enable a complete and accurate view of the fund; and
- (b) to comply with the deed, these rules, securities laws, and any other relevant law.

(2) A management company shall ensure that the financial statements of the fund give a true and fair view of the fund's financial position as at the end of the fund's financial period and results of operation for the period.

(3) A management company shall prepare and present, or cause to be prepared and presented, its financial statements in accordance with accounting standards approved by National Board of Accountants and Auditors(NBAA), the deed, these rules, securities laws and other relevant applicable laws.

The Management company shall, prepare and submit to the Authority –

- (a) the annual and interim reports (where applicable) of the fund;
- (b) quarterly reports,

Provision of  
Information

**24.-** A management company shall submit or make available any information relating to the fund, its business and any other information as may be required by the Authority and the trustee from time to time.

### **PART III THE TRUSTEE**

#### ***(a) Authorization and eligibility***

Appointment of  
Trustee

**25.-** As prescribed under sections 117 and 118 of the Act, a trustee must be appointed for a real estate investment trust and the appointment shall be authorized by the Authority.

Eligibility  
Requirements

**26.-(1)** A trustee shall—

- (a) be a body corporate incorporated under a companies Act;
- (b) be authorized by the Authority; and
- (c) have a minimum issued and paid-up capital as required as core

Act No:  
5 of 2006

capital for commercial bank under the Financial Institutions under the Banking and Financial Institutions Act, 2006.

(2) The Authority shall not approve a trustee unless the applicant is a bank or financial institution within the meaning of the Banking and Financial Institutions Act, 2006.

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***(b) Roles and Responsibilities of Trustee***

General

**27.**-(1) In addition to the duties stipulated under the Act, the trustee shall observe, act, and carry out its duties in accordance with the prescribed roles and responsibilities set out in this Part.

(2) A trustee shall—

- (a) act honestly and in accordance with the deed and prospectus, these rules, trust laws, securities laws and any other relevant applicable law;
- (b) exercise the degree of care and diligence that a reasonable person would exercise in the position of a trustee;
- (c) act in the best interests of unit holders and, if there is a conflict between unit holders' interests and its own interests, give priority to unit holders' interests;
- (d) not make improper use of information acquired through being the trustee in order to—
  - (i) gain an advantage for itself or another person; or
  - (ii) cause detriment to unit holders of the fund; and
- (e) comply with any other duty, not inconsistent with the Act and these rules, that is conferred on the trustee by the deed.

(3) A trustee shall, among others—

- (a) have adequate human resources with the necessary qualification, expertise, and experience to carry on business as a trustee to real estate investment trusts; and
- (b) have adequate and appropriate systems, procedures, and processes, to carry out its duties and responsibilities in a proper and efficient

manner.

(4) A trustee shall ensure that its officers and delegates—

- (a) do not make improper use of information acquired through being such an officer or delegate of the trustee to—
  - (i) gain an advantage for him or another person; or
  - (ii) cause detriment to unit holders of the fund;
- (b) do not make improper use of their position as officers or delegates to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to unit holders of the fund; and
- (c) comply with any other duty or obligation as may be prescribed under the securities laws, trust laws or these rules.

Holding of the Fund's  
Property

**28.-** (1) As prescribed under regulation 5 of the Collective Investment Schemes Regulations, 1997, a trustee shall take custody and control of the fund's property and hold it in trust for the unit holders in accordance with the deed, these rules, securities laws and other relevant laws.

(2) A trustee shall ensure that a fund's property is—

- (a) clearly identified as the fund's property;
- (b) held separately from any other asset/property held by or entrusted to the trustee; and
- (c) registered in the name of, or to the order of, the fund

Trustee's Obligations  
on Oversight  
Functions

**29.-** (1) A trustee shall actively monitor the operation and management of the fund by the management company to safeguard the interests of unit holders.

(2) A trustee shall, at all times, through proper and adequate supervision, ensure that the fund is operated and managed by the management company, in accordance with—

- (a) the deed;
- (b) the offer document;
- (c) these rules, securities laws and other relevant laws; and
- (d) acceptable and efficacious business practices within the real estate



investment trust industry.

(3) The Trustee shall ensure that the management company has-

- (a) the necessary office infrastructure;
- (b) appointed all key personnel including managers for the schemes and submitted their Curricula Vitae/ Resume which shall contain the educational qualifications and past experience in the areas relevant for fulfilling the objectives of the schemes;
- (c) appointed auditors from Authority's approved list to audit the accounts of the scheme;
- (d) appointed a compliance officer to comply with the provisions of the Act and these rules and to redress investor grievances;
- (e) prepared a compliance manual and designed internal control mechanisms including internal audit systems;
- (f) taken adequate insurance for the assets of the scheme;
- (g) not given any undue or unfair advantage to any associate or dealt with any of the associates in any manner detrimental to the interest of the unit holders;
- (h) operated the scheme in accordance with the provisions of the trust deed, these rules and offer document of the scheme(s);
- (i) undertaken the activity of managing schemes;
- (j) taken adequate steps to ensure that the interest of investors of one scheme are not compromised with the object of promoting the interest of investors of any other scheme;
- (k) minimum net worth on a continuous basis and shall inform the Authority immediately of any shortfall;

(4) The trustee shall review the investor complaints received and the redressal of the same by the management company .

(5) The trustee shall cause the scheme to be rated by a credit rating agency.

(6) The trustee shall take all reasonable care to ensure that-

- (a) trustee has proper legal title to the real estate owned by scheme, as well as to the contracts (such as property contracts, rental agreements, joint venture or joint arrangement agreements, and any other agreements) entered into on behalf of the scheme with respect to its assets and that each such contract is legal, valid and binding and enforceable by or on behalf of the scheme in accordance with its terms; and
- (b) there are adequate safe vaults for custody of original documents of title relating to trust property.

(7) To safeguard the interests of unit holders, the trustee shall conduct independent reviews quarterly and not only depend on information submitted by the management company.

(8) Where a fund is expressed to be managed in accordance with specific principles, the trustee shall ensure that the fund is managed in accordance with those principles.

(9) A trustee shall ensure that it is fully informed of the investment policies of the fund set by the management company, and of changes made.

(10) Where the trustee is of the opinion that the policies are not in the interests of holders, it shall, after considering any representation made by the management company, instruct the management company to take appropriate action as the trustee deems fit and may summon a holders' meeting to give any instructions to the trustee as the meeting deems proper.

(11) A trustee shall exercise reasonable diligence in monitoring functions of the management company and do everything in its power to ensure that the management company remedies any breach known to the trustee of the provisions or covenants of the deed, disclosures in the offer document, requirements of these rules and provisions of the Act, the regulations or any other relevant law, unless the trustee is satisfied that the breach does not materially prejudice holders' interests.

(12) The trustee shall ensure that it abides by the Code of Conduct set out in Second Schedule of these rules.

Trustee's Reporting  
and Disclosure  
Obligations

**30.-** The trustee shall notify the Authority as soon as practicable of any irregularity, any breach of the provisions or covenants of the deed, any contravention of securities laws or any inconsistency between the disclosures in the offer document and the provisions of covenants of the deed, which in the trustee's opinion, may indicate that the interests of holders are not being served.

(2) The trustee shall submit the following reports to the Authority

- (a) quarterly reports of the custodial services rendered to the fund;
- (b) the interim report of the Trustee;
- (c) annual report of the Trustee;
- (d) notices/circulars issued to unit holders; and
- (e) any information that may have an impact on the trustee or the operations of the Fund by management company.

Dealings in Fund's  
Property

**31.-(1)** A trustee shall take all steps to effect any instruction that is properly given by the management company, or its fund management delegate (if any), relating to acquisition or disposals of, or the exercise of the rights attaching to, a fund's property.

(2) Where the real estate acquired is occupied partly or wholly by related parties, the trustee shall ensure that the terms and conditions of the tenancy agreements are reasonable under prevailing market conditions.

(3) In determining rental rates for related tenants, the trustee shall be guided by the recommendation of at least one independent valuer appointed by the trustee.

Creation,  
Cancellation, and  
Dealing in Units of  
the Fund

**32.- (1)** A trustee shall take all necessary steps to effect any instruction properly given by the management company under these rules.

(2) A trustee shall ensure that the systems, procedures and processes employed by the management company are adequate to ensure that—

- (a) the fund's property is correctly valued in line with provisions of Part XII and First Schedule of these rules, the deed and offer document; and
- (b) (for unlisted funds) the fund's units are priced in line with provisions of Part XIV of these rules, the deed, and offer document.

(3) The trustee shall be responsible for the calculation of any income due to be paid to the scheme and also for any income received in the scheme which is due to unit holders.

Provision of  
Information

**33.-** A trustee shall submit or make available any statement, document, book, record, and other information relating to the fund and the business of the trustee, as may be required by the Authority from time to time.

Maintenance of  
Records

**34.-** A trustee shall maintain and ensure that the management company maintains proper accounting records and other records as are necessary—

- (a) to enable any person to have a complete and fair view of the fund; and
- (b) to ensure that the fund is operated and managed in compliance with the deed, offer document, these rules, and securities laws and other relevant laws.

Holdings of Units by  
Trustee

**35.-** A trustee shall not hold units or other interests in the fund.

#### **PART IV**

### **DELEGATION AND OUTSOURCING OF FUNCTIONS OF MANAGEMENT COMPANY OR TRUSTEE**

Power to  
Delegate  
or outsource

**36.-(1)** Subject to rules 37,38 and 39, a management company or trustee may delegate and outsource its functions to third parties.

Provided that no management company shall delegate its core responsibilities to a foreign entity if the fund has not invested in real estate outside Tanzania.

(2) Upon delegation pursuant to sub rule 1 of this rule, a management company or trustee remains responsible for the actions and omissions of the delegate or service providers as though they were its own actions and omissions.

(3) A management company or trustee shall ensure that—

- (a) adequate procedures are in place to monitor the conduct of its delegate or service provider and to ensure that the function delegated or outsourced is performed in a proper and efficient manner; and
- (b) there are controls in place to ensure compliance with the deed, offer document, these rules, the securities laws and other relevant laws.

(4) A management company or trustee shall ensure that its delegate or service provider is suitable to undertake the particular functions, including that it—

- (a) is duly licensed or authorized by a relevant authority, (where applicable);
- (b) has adequate financial resources;
- (c) has an adequate track record in the performance of the functions; and
- (d) has adequate and appropriate human resources, systems, procedures, and processes to carry out the function (including on compliance with applicable requirements, and policies and procedures on internal controls).

(5) The service agreement between the management company or trustee and its delegate or service provider shall, among others, contain clear provisions on—

- (a) the services to be provided;
- (b) the fees, remuneration, and other charges of the delegate;
- (c) any restriction or prohibition regarding the performance of the function to be delegated; and
- (d) reporting requirements, including the line of reporting between the delegate and the management company or trustee and means of evaluating the performance of the delegate.

Delegation of  
Function by the  
Management  
Company

**37.-(1)** Any delegation of a management company's function shall be made subject to the approval of the Authority.

(2) Where a management company appoints a foreign delegate, the agreement between the management company and its foreign delegate shall include, in addition to the requirements set out in rule 36(5), the following provisions:

- (a) adequate training arrangements between the foreign delegate and the management company; and
- (b) powers of examination and/or inspection by the management company and/or the trustee and/or the Authority to ensure that the foreign delegate is in compliance with the applicable requirements of the deed, offer document, these rules, securities laws and any other relevant law.

(3) An officer of the delegate (whether foreign or otherwise) shall not

hold office as member of the investment committee of any fund for which the fund manager is appointed to manage.

(4) The delegate's remuneration shall be paid by the management company and not be charged to the fund.

Delegation of  
Function by the  
Trustee

**38.**-(1) A trustee may only delegate the custodial function for the fund's property.

(2) Where the custodial function is delegated, the trustee shall ensure that—

- (a) it retains control of the fund's property at all times; and
- (b) there are adequate arrangements to prevent the delegate from releasing the custody or control of the fund's property without its prior consent.

(3) Any delegation of the Trustee's custodial functions shall be made subject to the approval of the Authority.

Outsourcing of  
functions

**39.**-(1) A management company may outsource its back office functions to external parties.

(2) Where the back office functions have been outsourced to external parties pursuant to sub- rule (1) of this rule, management company shall observe and ensure compliance with any of the requirements or principles or guidelines for outsourcing of back office functions for intermediaries and performance of supervision functions issued by the Authority.

(3) Any outsourcing of a management company's function shall be made subject to the approval of the Authority.

## **PART V**

### **OVERSIGHT ARRANGEMENT OF MANAGEMENT COMPANY'S OPERATIONS**

Management  
company may  
establish  
arrangements to  
provide an oversight  
over the operation

**40.**-In addition to the appointment of a trustee, a management company shall establish and maintain additional arrangements to provide an oversight over the operation and management of the fund, such as appointing an investment committee for the fund which shall be accountable to the board of directors of the management company.

Investment  
Committee

**41.**-(1) An investment committee shall comprise—

- (a) at least three individual members; and
  - (b) at least two independent members, while maintaining a minimum ratio of at least one-third independent members at all times.
- (2) A member of the investment committee shall not hold office as—
- (a) member of an investment committee of funds managed and administered by another management company;
  - (b) director of another management company;
  - (c) an officer of the delegate that carries on the fund management function of the fund.

Roles and  
Responsibilities

**42.**-(1) An investment committee ensure that the fund is managed in accordance with—

- (a) the fund's investment objective;
  - (b) the deed;
  - (c) the offer document;
  - (d) these rules, securities laws and other relevant laws;
  - (e) the internal investment restrictions and policies; and
  - (f) acceptable and efficacious investment management practices within the real estate investment trust industry.
- (2) An investment committee's roles and responsibilities include the following:
- (a) selecting appropriate strategies to achieve the proper performance of the fund in accordance with the investment policies;
  - (b) ensuring that the strategies selected are properly and efficiently implemented by the management company or its fund management delegate (if any); and
  - (c) actively monitoring, measuring and evaluating the performance of

the management company or its fund management delegate (if any).

- (d) submitting quarterly reports to the board of directors on the activities undertaken by the committee and making appropriate recommendations on issues that are within its responsibility.

**43.-** (1) The persons appointed to the investment committee shall–

- (a) be of good repute and character;
- (b) observe high standards of integrity and fair dealing in carrying out their duties and responsibilities;
- (c) act with due skill, care, and diligence in carrying out their duties and responsibilities;
- (d) take reasonable care to ensure that they carry out their duties and functions in accordance with these rules; and
- (e) possess the necessary qualifications, expertise, and experience, particularly in the respective fields to perform their duties and responsibilities in a fit and proper manner.

(2) The persons shall not have been involved in any unethical and/or inappropriate practice.

(3) A person shall be subject to a disqualification, among others, in any of the following events:

- (a) where a petition has been filed under bankruptcy laws or where a person has been declared bankrupt;
- (b) where a criminal proceeding resulting in conviction for fraud, dishonesty or any other offence punishable with imprisonment of one year or more, anywhere in the world;
- (c) where any inquiry/investigation has been carried out by any government/ statutory authority or body, in which there is an adverse finding; and
- (d) where an unethical practice and activity has been committed which would render that person unfit to perform an oversight function.

(4) The management company shall assess the ability of the person to carry out the duties and responsibilities required of him.



(5) Where a new management company is established, the responsibility under sub rule 5 of this rule shall lie with the holding company and/or promoter and its board of directors.

(6) Where any person becomes subject to any disqualification or becomes otherwise unfit to hold office, the management company shall ensure that the person vacates the position immediately and shall notify the Authority immediately of any disqualification and when the position becomes vacant.

(7) Where an individual is appointed as a member for more than one committee of funds operated and managed by the same management company, he shall act separately and independently for each fund he is appointed for.

## **PART VI**

### **CONSTITUTION OF A REAL ESTATE INVESTMENT TRUST**

Instrument  
Constituting the Fund

**44.**-(1) As prescribed under regulation 4(2) of the CIS Regulations, a management company shall ensure that there is a deed in force with respect to a fund.

(2) The deed shall contain the minimum requirements prescribed in Third Schedule to these rules and those specified under securities laws.

(3) A management company and trustee shall ensure that the requirements of sub rule (2) of this rule are met at all times.

(4) A management company and trustee shall be responsible for maintaining the deed and making necessary amendments to the deed in accordance with rule 47 of these rules.

Name of Fund

**45.**-(1) A management company and trustee shall ensure that the name of the fund is not inappropriate, misleading or does not conflict with the name of another fund.

(2) The Authority may direct the management company to change the name of the fund if, in the opinion of the Authority, the name of the fund is inappropriate, misleading or conflicts with the name of another fund.

(3) When deciding whether to make a direction under sub-rule (2) of this rule, the Authority shall take into account, among other matters, whether the name of the fund—

(a) implies that the fund has merits which are not justified;

- (b) is inconsistent with the fund's investment objective or policy;
- (c) might mislead investors into thinking that a person other than the management company is responsible for the fund or part of the fund;
- (d) is substantially similar to the name of another fund in Tanzania or elsewhere; or
- (e) is, in the opinion of the Authority, likely to offend the public.

Investment Objective  
of the Fund

**46.**-(1) The investment objective of the fund must be clear, specific, and sufficiently stipulated in the deed.

(2) Where the strategies adopted to meet the investment objective of the fund involve investment in a particular type of real estates, market or geographic area, the management company shall ensure that an appropriate portion of the fund is invested in accordance with that intention.

Modifications to the  
Deed

**47.**-(1) Any modification to a fund's deed must be made in accordance with the provisions of the deed and regulations 14 and 15 of the CIS regulations.

(2) Unless otherwise provided by the securities laws, any modification to the deed, including any material change to the investment objective set out for the fund, shall be approved by the holders of the fund by way of a resolution of not less than two-thirds of all holders at a holders' meeting duly convened and held in accordance with the deed.

## **PART VII**

### **INVESTMENTS OF THE REAL ESTATE INVESTMENT TRUST**

General

**48.**-(1) The Trustee and the management company shall ensure that the fund's property is relevant and consistent with the investment objective of the fund.

(2) The management company shall ensure that reasonable steps are taken to ensure that, taking into account the investment objective and policy of the fund, the fund's property provides a prudent spread of risk.

(3) The provisions in this Part apply to all real estate investment trusts constituted in Tanzania.

Dealings in the  
Fund's Property

**49.**-(1) The management company shall ensure that all dealings in the fund's property is appropriate to the fund and consistent with—

- (a) the deed;
- (b) the offer document;
- (c) these rules, securities laws and other relevant law; and
- (d) acceptable and efficacious practices within the real estate investment trust industry.

(2) A management company shall–

- (a) notify the trustee in writing and keep them updated on any proposal relating to acquisitions or disposals of real estates;
- (b) notify the trustee in writing of any acquisition or disposal of real estate-related assets and non-real estate-related assets within one business day after which the acquisition or disposal was effected;
- (c) ensure that the fund's property has adequate proof of title or ownership to allow proper custodial arrangements to be made; and
- (d) cancel a transaction or make a corresponding acquisition or disposal at its own expense to secure restoration of the previous position where the trustee conveyed an opinion that a particular acquisition or disposal exceeds the powers conferred on it, or is otherwise contrary to the interests of the unit holders.

Authorized  
Investments

**50.-** (1) A real estate investment trust may only invest in the following:

- (a) Real estates;
- (b) Single-purpose companies;
- (c) Real estate-related assets;
- (d) Non-real estate-related assets; and
- (e) Cash, deposits, and money market instruments.

(2) At least 50% of a fund's total asset value shall be invested in real estate and/or single-purpose companies at all times.

(3) A fund's investment in non-real estate-related assets and/or cash, deposits and money market instruments shall not exceed 25% of a fund's total asset value.

## **PART VIII INVESTMENTS IN REAL ESTATES**

Acquisitions of real estate by the fund, disposal of real estate, price of acquisition and disposal

**51.**-(1) A management company shall ensure that the real estate to be acquired by the fund–

- (a) is tenanted;
- (b) has a good track record and good prospects of future net rental income of reasonable levels;
- (c) is competitive and located within good catchment areas, as evidenced by market studies; and
- (d) is free from encumbrances at the time of acquisition, except for charges entered by financial institutions, trustee or management company in relation to loan facilities.

(2) For the purpose of sub- rule (1)(a), a fund may acquire a real estate that is not fully tenanted, provided that–

- (a) there is good potential to secure tenants;
- (b) any capital expenditure to be incurred to enhance the real estate would not materially affect the yield to unit holders; and
- (c) the acquisition would be able to yield a reasonable return within a reasonable period of time.

(3) A management company shall ensure that–

- (a) an acquisition of a real estate includes the ownership of all rights, interests, and benefits related to the ownership of the real estate; and
- (b) the fund has majority ownership and control in the real estate acquired to enable the fund to exercise all rights and interests over the real estate without any hindrance.

(4) Notwithstanding sub–rule (3) of this rule, a fund may acquire real estates where it does not have a majority ownership and control provided that–

- (a) the total value of these real estates does not exceed 25% of the fund's total asset value (after the acquisition);
- (b) the acquisition of these real estates is in the best interest of the unit

holders;

- (c) the fund has legal title and beneficial interest in these real estates; and
- (d) there are clear disclosures in the fund's offer document or announcement/notification to unit holders (where applicable) of risks associated with holding real estates with no majority control.

(5) For leasehold real estates, a management company shall ensure that–

- (a) the consent of the relevant authority to transfer the lease has been obtained before the fund's prospectus is registered with the Authority (or where it is an excluded offer, the information memorandum is deposited with the Authority), or prior to the acquisition of the leasehold property (in the case of an existing fund); and
- (b) the lease shall be a registered lease.

(6) For real estates under construction, a fund may enter into an arrangement or agreement at any stage during the construction phase to acquire the real estate, provided that the following criteria are met:

- (a) income from real estates within the fund's investment portfolio is sufficient to ensure that there is no substantial dilution to the fund's earnings per unit during the construction period;
- (b) the purchase agreement is made subject to the completion of the building with sufficient cover for construction risks;
- (c) the construction of the real estate must be carried out on terms which are the best available for the fund and at arm's length transaction between independent parties;
- (d) the prospects for the real estate to be acquired upon its completion is reasonably expected to be favorable, and
- (e) the total value of real estates under construction acquired by the fund does not exceed 10% of the fund's total asset value (after the acquisition).

(7) For real estates located outside Tanzania, the management company shall ensure that the relevant rules, guidelines and laws are complied with, and that approvals/authorizations from the relevant authorities (foreign or domestic) have been obtained prior to the acquisition.

(8) All real estates acquired by a fund shall be insured for their full replacement value, including loss of rental, where appropriate, with insurance companies approved by the trustee.

Disposals

**52.-** Where the value of real estate(s) to be disposed of exceeds 50% of the fund's total asset value, the disposal shall be sanctioned by the holders by way of an ordinary resolution, except where the disposal is for the purpose of terminating or winding up the fund.

Acquisition and  
Disposal Price

**53.-(1)** A fund shall not acquire real estates at a price more than 110% of the value assessed in a valuation report, provided that the value has not been revised by the Authority (where applicable).

(2) A fund shall not dispose of real estates at a price lower than 90% of the value assessed in a valuation report.

Investments in Single-  
purpose Companies

**54.- (1)** In acquiring a single-purpose company that owns a real estate, a management company shall ensure that—

- (a) the acquisition is in the best interests of holders;
- (b) there are valid commercial reasons for acquiring the company instead of the real estate;
- (c) the real estates owned by the single-purpose company complies with rule 51(4)(d) to 51(8);
- (d) the fund shall wholly-acquire the single-purpose company.
- (e) Where the circumstances under paragraph (d) of this rule are not possible, the fund shall acquire equities of the single-purpose company that would ensure it has majority ownership and control of the company to enable it to exercise an effective control over the company and exercise all rights and interests over the real estate without any hindrance;
- (f) the fund shall not assume any liability of the single-purpose company it is acquiring, except for the commitments under clause 51(4)(d); and
- (g) the value of the single-purpose company is backed by the value of the real estate.

(2) In disposing of investments in a single-purpose company, the

management company shall ensure that rule 52 is complied with.

**PART IX**  
**INVESTMENTS IN REAL ESTATE-RELATED ASSETS AND NON-REAL ESTATE**  
**RELATED ASSETS**

Limits and  
restrictions on  
investment

**55.-** (1) A fund's property may consist of real estate-related assets and non-real estate-related assets, subject to the following:

(a) the securities are traded in or under the rules of an eligible market;

(b) unlisted debt securities;

(c) *Spread Limits*

(i) the value of a fund's investments in securities issued by any single issuer shall not exceed 5% of the fund's total asset value; and

(ii) the value of a fund's investments in securities issued by any group of companies shall not exceed 10% of the fund's total asset value;

(d) *Concentration Limits*

A fund's investments in any class of securities shall not exceed 10% of the securities issued by any single issuer.

(2) The management company shall ensure that the investment limits and restrictions are complied with at all times based on the most up-to-date value of the fund's property.

(3) The limits and restrictions in sub rule (1) of this rule do not apply to securities issued or guaranteed by Government or a Central Bank.

(4) In determining compliance with the limits or restrictions, any accrued entitlement on the securities held by the fund may be excluded except that the entitlement shall not be exercised if the exercise results in the breach of any limit or restriction.

(5) Notwithstanding sub- rule (4) of this rule, the right of convertibility may be exercised if it results in a breach of any limit or restriction, provided there are justifiable reasons and prior approval of the trustee has been obtained.

(6) The management company shall, take all necessary steps and actions

to rectify the breach, within one month from the date of the breach.

Determination of  
compliance  
with limits and  
restrictions

**56.**-(1) In determining compliance with the limits and restrictions, the use of the fund's latest total asset value shall be made as disclosed in the latest published audited accounts of the fund and adjusted for any subsequent transaction since the publication of such accounts.

(2) The management company or the trustee shall not exercise the voting rights at any election for the appointment of a director of a corporation whose shares are so held, unless it is sanctioned by the unit holders of the fund by way of an ordinary resolution.

Investments in  
deposits

**57.**- The fund's property may consist of placement of deposits provided that it is with a licensed institution.

Investments in foreign  
real estates/markets

**58.**-(1) Where a fund proposes to acquire a real estate located outside Tanzania, the management company shall ensure that such an acquisition is in the best interests of the fund and its unit holders.

(2) The management company shall take into account various factors, including but not limited to, the following:

- (a) entry barriers, such as foreign ownership restrictions, foreign exchange and remittance control, and anti-trust/competition provisions;
- (b) economic and political environment, legal, judicial and accounting systems, and the real estate market in the foreign country;
- (c) operational barriers, such as enforcement of legal rights as landlord and transparency of accounting and financial reporting systems;
- (d) taxation matters that may affect operations of a fund investing in the foreign country concerned;
- (e) the existence of a foreign entity, where applicable to whom functions are delegated, the ability of the management company to maintain sufficient ongoing supervision of such foreign entity and the presence of any constraint or limitation in engaging such an entity;
- (f) possible exit strategies or mechanisms for the foreign market and termination arrangements for the fund's foreign investments; and



- (g) practical and effective measures that would address any issue or mitigate the risks that may arise out of the foreign investment.

(3) Notwithstanding rule 50, a fund which acquires or owns real estates located outside Tanzania may participate in forward sales or purchases of any currency or money, including Tanzanian shillings or any foreign exchange contract of any nature.

(4) A fund's participation in forward contracts under sub-rule (3) of this rule, is allowed for the following purposes:

- (a) hedging for a specific real estate and a specific cash flow; and
- (b) risk-management purposes, and is limited to the fund's existing exposure.

(5) A foreign market, for investments in real estate-related assets and non-real estate-related assets is an eligible market where it also has satisfactory provisions relating to-

- (a) the regulation of the foreign market which are of similar import to those of Tanzania;
- (b) the general carrying on of business in the market with due regard to the interests of the public;
- (c) adequacy of market information;
- (d) corporate governance;
- (e) disciplining of participants for conduct inconsistent with fair and equitable principles in the transaction of business, or for a contravention of, or a failure to comply with, the rules of the market; and
- (f) arrangements for the unimpeded transmission of income and capital from the foreign market to the fund.

(6) Notwithstanding sub-rule (5) of this rule, investments in real-estate related assets and non-real estate-related assets are limited to foreign markets where the regulatory authority is a member of the International Organization of Securities Commissions (IOSCO).

#### Borrowings

**59.-** (1) A fund may use borrowings to acquire real estates and single-purpose companies, and for capital expenditure purposes.

(2) A fund may only borrow from licensed institutions or through the issuance of debentures.

(3) For an unlisted fund, borrowings may also be used to meet repurchase requests for units where the borrowing period shall not exceed six months from the date the borrowings are incurred.

(4) The total borrowings of a fund (including borrowings through issuance of debt securities) shall not exceed 50% of the total asset value of the fund at the time the borrowings are incurred.

(5) Notwithstanding sub rule (4) of this rule, the fund's total borrowings may exceed the limit only with the sanction of the unit holders by way of an ordinary resolution.

(6) In determining the level of borrowings, regard shall be given to—

- (a) the risks of borrowings to the fund and its unit holders; and
- (b) the impact of borrowings on the financial position of the fund.

(7) The management company may, with the consent of the trustee, pledge the fund's property to secure borrowings.

(8) Rule 53, 63(3)(c)(i) and 63(4)(b) of these rules shall not apply to the fund's property which has been pledged.

(9) The trustee shall ensure that the fund's borrowings and pledging of the fund's property are not prejudicial to the interests of the holders.

## **PART X**

### **BREACH OF INVESTMENT LIMITS**

Real Estates and  
Single-purpose  
Companies

**60.-** Where a fund fails to comply with rule 50(2) as a result of disposals, divestments or issuance of new units, the management company shall, within a period of not more than 12 months from the date of breach, take all necessary steps and actions to rectify the breach.

Real Estate-related  
Assets and Non-real  
Estate-related Assets

**61.-(1)** Notwithstanding rule 55(2), a 5% allowance in excess of any limit or restriction imposed under these rules is permitted where the limit or restriction is breached through an appreciation or depreciation of the fund's total asset value

which is as a result of an appreciation or depreciation in the value of the fund's asset or as a result of a repurchase of units (for unlisted funds) or payment made out of the fund.

(2) A management company shall not make any further investment to which the relevant limit is breached, and the management company shall, within reasonable period of not more than three months from the date of the breach, take all necessary steps and actions to rectify the breach.

(3) A management company shall notify the Authority of any breach of investment limits under this rule and the reasons thereof.

Non-Permissible  
Activities

**62.**-(1) A fund is not permitted to conduct the following activities:

(a) extension of loans or any other credit facility;

(b) acquisition of a vacant land.

(c) property development unless-

(i) the property shall be held for three years after completion;

(ii) there is proper cover for construction risks;

(iii) the development terms shall be the same as those in arms length with independent parties;

(iv) the prospects upon completion of construction are reasonably expected to be favorable and that they do not exceed 10% of the deposited property of the REIT.

(2) For the purpose of this rule "property development" includes development of a building program and design and obtaining the necessary permits/approvals and financing and building of the structure.

(3) The restriction under rule 62(1) (c) does not apply to refurbishment, retrofitting, renovations or extensions carried out on existing real estates within a fund's investment portfolio.

## **PART XI**

## TRANSACTIONS WITH RELATED PARTIES

Transaction between  
the fund and its  
related parties

**63.**-(1) For the purpose of this Part, a related-party transaction is any transaction between the fund and its related parties.

(2) Where a management company manages more than one fund and a transaction involves two or more of the funds managed by the management company, transactions between these two funds are deemed as related- party transactions for each of the fund involved in the transactions.

(3) All related-party transactions carried out by or on behalf of the fund should be—

- (a) carried out at arm's length;
- (b) in the best interests of unit holders of the fund;
- (c) in relation to a real estate transaction—
  - (i) transacted at a price that is equivalent to the value assessed in the valuation report;
  - (ii) consented to by the trustee; and
  - (iii) consistent with the investment objective and strategy of the fund; and
- (d) adequately disclosed to unit holders.

(4) A real estate may be transacted at a price other than that specified in sub rule (3) (c)(i) of this rule provided that—

- (a) the acquisition price is not more than 110% of the value assessed in the valuation report;
- (b) the disposal price is not less than 90% of the value assessed in the valuation report; and
- (c) the trustee provides a written confirmation that the transaction is based on normal commercial terms, at arm's length, and not prejudicial to unit holders' interest.

(5) Where the transaction value with related parties under sub rule (3)(c) of this rule—

- (a) is equal to or greater than 5% of the total asset value of the fund (after acquisition), the prior approval of the unit holders by way of an ordinary resolution shall be obtained; or
- (b) does not exceed 5% of the total asset value of the fund (after acquisition), the trustee shall provide a written confirmation that the transaction is based on normal commercial terms, at arm's length, and not prejudicial to the unit holders' interest.

(6) For the purpose of sub rule (4)(c) and (5)(b) of this rule, the management company shall inform unit holders through an announcement to Stock Exchange (for listed funds) or through a notification letter (for unlisted funds) of the trustee's written confirmation.

(7) For the purpose of sub rule (5) of this rule-

- (a) the total asset value of the fund should be as disclosed in the latest published audited accounts of the fund, and adjusted for any subsequent transaction since the publication of such accounts (on a per transaction basis).
- (b) where more than one transaction is conducted with the same related party and the value of this single transaction does not exceed the 5% limit, the limit applies to the aggregate value of all transactions between such person and the fund over a 12-month period preceding the intended transaction. For this purpose, transactions between the fund and related parties who are members of the same group are deemed to be transactions with the same related party.

## **PART XII VALUATION**

Appointment of a  
Principal Valuer

**64.-** (1) Every scheme for which authorization is requested shall appoint an independent property valuer (referred to in these rules as the "Principal Valuer")

(2) The agreement for such appointment shall clearly list the obligations and length of tenure of the Principal Valuer as set out in this Part.

(3) The Principal Valuer shall be independent of the scheme, trustee, management company and each of the significant holders of the scheme.

(4) The Principal Valuer shall not be considered independent if:

- (a) it is the subsidiary or holding company of:
  - (i) the management company of the scheme;
  - (ii) the trustee of the scheme;
  - (iii) any of the significant holders of the scheme; or
  - (iv) the holding company, subsidiary or associated company of the management company , trustee, or any of the significant holders of the scheme; or
- (b) any of its partners, directors or officers is-
  - (i) director or officer of the management company of the scheme;
  - (ii) the trustee of the fund;
  - (iii) any of the significant holders of the scheme; or
  - (iv) the holding company, subsidiary or associated company of the management company , trustee or any of its significant holders; or
- (c) it is holding or controlling 10% or more of the beneficial interest in, or the right to vote in the governing bodies of, any of the entities in (b)(i), (b)(ii), (b)(iii) or (b)(iv); or
- (d) in the case where the scheme intends to acquire or dispose of a property, the principal valuer or its associate:
  - (i) is engaged whether as principal or agent by the scheme in relation to the acquisition of the scheme property;
  - (ii) acts as a broker for the property transaction for a fee; or
  - (iii) had, at any time during the one year immediately before the date of the agreement for such intended purchase or disposal, been retained to provide valuation of the subject property to the scheme's counterparty (or its associated companies);

(5) For the purpose of sub rule (4), “significant holders of the scheme” means any person who hold units exceeding five per cent of total units of the scheme.

(6) The Principal Valuer shall be a reputed firm or company which:

- (a) provides property valuation services on a regular basis;
- (b) carries on the business of valuing real estate;
- (c) has key personnel who are qualified to perform property valuations;
- (d) has sufficient financial resources at its disposal to enable it to conduct its business effectively and meet its liabilities; in particular, it shall have a minimum issued and paid-up capital and capital reserves of three hundred million or its equivalent in foreign currency, and its assets shall exceed its liabilities by three hundred million shillings or more as shown in the firm's or company's last audited balance sheet;
- (e) has adequate professional insurance to cover its usual risks.
- (f) has robust internal controls and checks and balances to ensure the integrity of valuation reports and that these reports are properly and professionally prepared in accordance with best practices; and

(7) The directors of the Principal Valuer shall be persons of good repute who possess the necessary experience for the performance of their duties.

General  
Obligations  
of a  
Principal Valuer

**65.**-(1) The Principal Valuer shall value all the real estate held under the scheme, on the basis of a full valuation with physical inspection in respect of the site of the real estate and an inspection of the building(s) and facilities erected thereon once a year, and in any event, for the purposes of issuance of new units.

(2) The Principal Valuer shall also submit to the management company and trustee a valuation report on real estate to be acquired or sold by the scheme or where new units are offered by the scheme or in any other circumstances as may be specified by the Authority.

(3) The valuation methodology shall follow the valuation standards on properties published from time to time by the National Council of Professional Surveyors or any international valuation standards applicable in Tanzania.

(4) The Principal Valuer shall ensure that its opinion and valuation is independent of and unaffected by its business or commercial relationship with other persons.

(3) The valuation report shall as a minimum include the following:

- (a) all material details in relation to the basis of valuation and the assumptions used;
- (b) describe and explain the valuation methodologies adopted;

- (c) overall structure and condition of the relevant market including an analysis of the supply demand situation, the market trend and investment activities;
- (d) the following particulars in respect of each property:
  - (i) an address sufficient to identify the property, which shall generally include postal address, plot number and such further designation as is registered with the appropriate government authorities;
  - (ii) the nature of the interest the scheme holds in the property such as leasehold, and the remainder of the term if it is a leasehold);
  - (iii) the existing use such as shops, offices, factories, residential, etc.);
  - (iv) a brief description of the property, such as the age of the building, the site area, gross floor area, net lettable floor area, and the current zoning use;
  - (v) the options or rights of pre-emption and other encumbrances concerning or affecting the property;
  - (vi) occupancy rate;
  - (vii) lease cycle duration;
  - (viii) lease expiry profile;
  - (ix) a summary of the terms of any sub-leases or tenancies, including repair obligation, granted to the tenants of the property;
  - (x) the capital value in existing state at the date the valuation was performed;
  - (xi) the existing monthly rental before tax if the property is wholly or partly let together with the amount and a description of any outgoings or disbursements from the rent, and, if materially different, the estimated current monthly market rental obtainable, on the basis that the property was available to let on the effective date as at which the property was valued;



- (xii) the estimated current net yield
- (xiii) a summary of any rent review provisions, where material;
- (xiv) the amount of vacant space, where material;
- (xv) material information regarding the title of the subject property as contained in the relevant legal opinion, and a discussion as to whether any and how the legal opinions have been taken into consideration in the valuation of the relevant property; and
- (xvi) any other matters which may affect the property or its value;
- (xvii) particulars (as set out in this paragraph) of any real estate for which the scheme has an option to purchase;
- (xviii) a letter stating the independent status of the principal valuer and that the valuation report is prepared on a fair and unbiased basis;
- (xix) a discussion of the valuation methodology and assumptions used, and justification of the assumptions; and
- (xx) an explanation of the rationale for choosing the particular valuation method if more than one method is or could have been adopted.

(4) Provided where a valuation report is allowed by the Authority to be published in summary form, the full valuation report shall be made available for inspection at an address in Tanzania.

(5) Where a legal opinion is required, such opinion together with copies of any document referred to therein shall be made available to the Principal Valuer of the relevant property prior to the completion of the valuation report.

(6) Whenever a valuation report is prepared for the scheme, the date of the valuation report shall be:

- (a) the date the scheme is valued, if such report is prepared for the purpose of calculating the net asset value of the scheme; or
- (b) a date which is not more than three months before the date on

which-

- (i) an offer document is issued; or
- (ii) a circular is issued, if the circular relates to a transaction that requires holders' approval; or
- (iii) a sale and purchase agreement (or other agreement to transfer legal title) is signed, if the transaction does not require holders' approval.

(7) Where the date of the valuation report precedes the end of the last period reported on by the auditor, it will be necessary for the offer document or circular to include a statement reconciling the valuation figure with the figure included in the balance sheet as at the end of the period in the event the two figures are different.

(8) The Principal Valuer shall be subject to removal by notice in writing from the Trustee in any of the following events:

- (a) the Principal Valuer goes into liquidation, becomes bankrupt or has a liquidator appointed over its assets; or
- (b) for good and sufficient reason, the trustee states in writing that a change in the Principal Valuer is desirable in the interests of the unit holders; or
- (c) an ordinary resolution is passed by the unit holders to dismiss the Principal Valuer where the following persons shall abstain from voting:
  - (i) the Principal Valuer;
  - (ii) directors, senior executives or officers of the Principal Valuer;
  - (iii) associates of the persons in (ii); and
  - (iv) controlling entity, holding company, subsidiary or associated company of the Principal Valuer.

(9) Upon the retirement or dismissal of the Principal Valuer, the real estate investment trust shall appoint a new Principal Valuer that meets the qualification requirements of this Part.

(10) A valuer may only conduct up to three consecutive valuations of any

particular real estate of a fund.

Submission  
of the valuation  
report to the  
Authority

**66.**-(1) A valuation report shall be deposited with the Authority–

- (a) within one month from the date of the sales and purchase agreement; or
- (b) together with the annual report of the fund in the case of revaluations.

(2) Where circumstances have arisen that materially affect the value of the real estates, the trustee shall ensure that the appointed valuer makes the necessary adjustments in the valuation report.

Disclosure of Net  
Asset Value

**67.**- The management company shall take all reasonable care to ensure that the net asset value per unit of a scheme is calculated as and when an annual valuation report is issued by the principal valuer for the relevant period, and that such net asset value shall be published in the annual report and disclosed to unit holders at such frequency as specified by the Authority.

Regulatory  
Parameters  
on  
Valuation of  
Real Estates

**68.**-(1) Where a real estate (including those held by single-purpose companies) is the subject of an acquisition–

- (a) as part of the establishment of a new fund ; or
- (b) financed, or refinanced within one year, through the issuance of new units,

the value of the real estate to be acquired requires the Authority’s approval.

(2) Where the value of the real estate in the valuation report submitted to the Authority differs from the value approved by the Authority–

- (a) the value approved by the Authority shall be used as the basis to determine the purchase consideration for the real estate; and
- (b) both values shall be disclosed in the offer document, circular to unit holders or any other documents issued for the acquisition.

(3) The Authority reserves the right to seek a second opinion on the value of a real estate.

(4) Where the Authority requires a second opinion, the valuer for the second opinion shall be appointed by the Authority and any fees and costs

incurred shall be borne by the fund.

Real Estate-related  
Assets and Non-real  
Estate-related Assets

**69.**-(1) A valuation shall be carried out on all real estate-related assets and non-real estate-related assets in accordance with First Schedule of these rules.

(2) Valuations of these types of assets shall be based on a process which is consistently applied, and leads to objective and independently verifiable valuations.

(3) The valuation points for these types of assets shall be—

- (a) for a listed fund at the end of each quarter; and
- (b) for an unlisted fund at least once every business day.

(4) For unlisted funds-

- (a) no valuation points are required during the initial offer period of the fund;
- (b) management company may have additional valuation points for the fund during the business day, where it considers necessary; and
- (c) for a fund with limited repurchase arrangements, sub rule (3)(b) would not apply and the valuation points shall be clearly disclosed in the prospectus/information memorandum and shall be at least once a month;

(5) Upon completion of a valuation, the management company shall notify the trustee immediately of the NAV per unit of the fund.

Incorrect  
Valuation

**70.**-(1) Where an incorrect valuation occurs, the management company shall immediately notify the trustee and the Authority.

(2) The management company shall take immediate remedial action to rectify any incorrect valuation.

(3) Where the incorrect valuation concerns an unlisted fund, rectification shall be extended to the reimbursement of money—

- (a) by the management company to the fund;
- (b) from the fund to the management company; or
- (c) by the management company to unit holders and/or former unit

holders.

(4) Notwithstanding sub rule (3) of this rule, rectification may need not extend to any reimbursement where the trustee considers the incorrect valuation to be of minimal significance.

Announcement/  
Publication of NAV  
per Unit

**71.-(1)** The management company shall–

- (a) (for a listed fund) announce the NAV per unit of the fund to the Stock Exchange on a quarterly basis; and
- (b) (for unlisted fund) publish the NAV per unit of the fund daily in at least one wide circulated national newspaper in both Kiswahili and English languages.

(2) For an unlisted fund with limited repurchase arrangements, sub rule (1)(b) of this rule, shall not apply and the management company shall publish its NAV per unit at least once a month.

(3) For the purpose of sub rule (1), the NAV per unit announced or published should be rounded to four decimal places.

### **PART XIII FEES AND EXPENSES**

Management  
Fee  
and  
Trustee Fee

**72.-(1)** A management company and trustee may only be remunerated by way of an annual fee charged to the fund.

(2) The fees may only be charged to the fund if permitted by the deed and are clearly disclosed in the offer document.

(3) The fees shall not be higher than that disclosed in the offer document of the fund unless–

- (a) in respect of management fee, the management company has notified the trustee in writing of the new higher rate, and the trustee agrees after considering matters as stated in rule 75;
- (b) in respect of trustee fee, the trustee has notified the management company in writing of the new higher rate and the management company agrees after considering matters as stated in rule 76;
- (c) in respect of listed funds, the management company has made an

announcement to the stock exchange of the higher fee rate and its effective date;

- (d) in respect of unlisted funds, the management company has notified unit holders of the higher fee rate and its effective date and a supplementary offer document has been registered and issued; and

(4) Any increase in the maximum rate stated in the deed may only be made by way of a supplementary deed and in accordance with the requirements of the Act, CIS regulations, these rules or any other relevant law.

Remuneration  
of  
Management  
Company

**73.**-(1) A management company shall demonstrate, and the trustee may agree, that the management fee is reasonable, considering–

- (a) the roles, duties, and responsibilities of the management company;
- (b) the interests of unit holders;
- (c) the nature, quality, and extent of the services provided by the management company;
- (d) the size and composition of the fund's property;
- (e) the success of the management company in meeting the fund's investment objective;
- (f) the need to maximize returns to unit holders; and
- (g) the maximum rate stipulated in the deed.

(2) Notwithstanding sub rule (1) of this rule, where at any time the trustee is of the opinion that the management fee charged to the fund is unreasonable, the trustee shall take such necessary actions, which may include convening a unit holders' meeting, to ensure that the fee charged is commensurate with the services provided by the management company.

Remuneration  
of  
Trustee

**74.**- The trustee fee shall be fair and reasonable, considering–

- (a) the roles, duties, and responsibilities of the trustee;
- (b) the interests of the unit holders;

- (c) the maximum rate stipulated in the deed; and
- (d) the size and composition of the fund's property.

**75.-** (1) Only expenses (or part thereof) directly related and necessary in operating and administering a fund may be paid out of the fund. These include the following:

- (a) maintenance of real estates belonging to the fund;
- (b) taxes and other duties charged on the fund by the government and other authorities;
- (c) fees and other expenses properly incurred by the auditor appointed for the fund;
- (d) fees for the valuation of any investment of the fund by independent valuers for the benefit of the fund;
- (e) costs incurred for the modification of the deed of the fund other than those for the benefit of the management company or trustee;
- (f) costs incurred for any meeting of the unit holders other than those convened for the benefit of the management company or trustee; and
- (g) listing expenses for listing on the stock exchange.

(2) The above list provided in sub rule (1) gives some guidance on expenses that are directly related and necessary to the operation of the fund and is not exhaustive.

(3) General overheads and costs for services expected to be provided by a management company shall not be charged to the fund.

(4) A trustee shall ensure that all expenses charged to the fund are legitimate and the quantum of expenses charged to the fund is not excessive or beyond the standard commercial rates.

(5) Where uncertainties arise, the trustee shall exercise its discretion carefully and appropriately in determining whether or not to allow the expense (or the quantum of the expense) to be charged to the fund.

(6) A trustee may be reimbursed by the fund for any expenses justifiably incurred in the performance of its duties and responsibilities as a trustee.

## **PART XIV PRICING AND DEALING**

Price of  
a Unit  
of  
Listed  
Funds

**76.-** (1) The issue price of units offered for subscription or sale, for which a listing is sought, shall be at least TZS 100 each.

(2) Where units are offered to related parties in conjunction with the initial public offering, the price of the units shall be set at least at the issue price to the public.

(3) Upon listing of the fund on a stock exchange, the price of the unit shall be the price on the exchange.

Price of a  
Unit of  
Unlisted  
Funds

**77.-**(1) During the initial offer period, the price of a unit (i.e. the initial price) shall be determined by the management company.

(2) After the initial offer period, the price of a unit shall be the NAV per unit of the fund.

(3) Any dealing in units shall be at a price that is the NAV per unit as at the next valuation point after the request for sale or repurchase of units is received by the management company (forward price).

Incorrect  
Pricing  
of  
Unlisted  
Funds

**78.-**(1) Where incorrect pricing occurs, the management company shall notify the trustee and notify the Authority.

(2) The management company shall take immediate remedial action to rectify any incorrect pricing, within 12 hours from the time the incorrect pricing was detected.

(3) The rectification referred to in sub rule (2) of this rule shall be extended to the reimbursement of money–

- (a) by the management company to the fund;
- (b) from the fund to the management company; or
- (c) by the management company to unit holders and/or former unit



holders.

(4) Notwithstanding sub rule (3) of this rule, the rectification need not, unless the trustee otherwise directs, extend to any reimbursement where the trustee considers the incorrect pricing to be of minimal significance.

Dealing in  
Units  
of  
*Listed  
Funds*

**79.-** Any dealing in units shall comply with relevant securities laws, these rules or any guidelines issued by the Authority.

Dealing in  
Units of  
*Unlisted  
Funds*

**80.-(1)** A management company may agree to issue and redeem, and effect the sale and repurchase of units upon the request of an investor.

(2) A management company shall at all times during the business day, deal in units of a fund in accordance with the deed and the offer document unless it has reasonable grounds to refuse a sale or repurchase.

(3) A close-ended fund shall list on a stock exchange and all repurchase shall be done in accordance with the rules of the stock exchange in which the fund is listed.

Pricing  
and  
Dealing

**81.- (1)** A management company shall only deal in units at a price determined in accordance with rules 76 and 77 of these rules.

(2) A management company shall-

- (a) pay the unit holder in cash the proceeds of the repurchase of units as soon as possible, at most within 30 days of receiving the repurchase request; and
- (b) maintain adequate arrangements to enable it to meet any repurchase request within the stated period of time.

## **PART XV**

### **SUSPENSION OF DEALING IN UNITS**

Listed  
Funds

**82.-(1)** Suspension of dealing in units shall comply with relevant securities laws, these rules or any guidelines issued by the Authority.

(2) Notwithstanding sub rule (1) of this rule, a trustee shall suspend dealing in units of a fund due to exceptional circumstances, where there is good and sufficient reason to do so, considering the interests of unit holders or potential investors.

(3) The suspension under sub rule (2) of this rule shall cease as soon as practicable after the exceptional circumstances have ceased, and in any event, within 21 days of the commencement of the suspension.

(4) A trustee shall immediately notify the Authority in writing—

- (a) of suspension of dealing in units, stating the reasons for suspension; and
- (b) of the proposed resumption of dealing in units and the date of the proposed resumption.

Unlisted  
Funds

**83.**-(1) A trustee shall suspend dealing in units of a fund—

- (a) where requests are made by the management company to cancel units to satisfy a repurchase request and the trustee considers that it is not in the best interests of unit holders to permit the fund's property to be sold or that the fund's property cannot be liquidated at an appropriate price or on adequate terms; or
- (b) due to exceptional circumstances, where there is good and sufficient reason to do so, considering the interests of unit holders or potential investors.

(2) A suspension under sub rule (1)(a) of this rule, shall only be carried out where the interests of unit holders or potential investors would be materially affected if the dealing in units were not suspended and in such a case, the trustee shall immediately call for a unit holders' meeting to decide on the next course of action.

(3) A suspension under sub rule (1)(b) of this rule shall cease as soon as practicable after the exceptional circumstances have ceased, and in any event, within 21 days of the commencement of the suspension.

(4) A trustee shall not create and/or cancel units when dealing in units is suspended.

(5) A trustee shall ensure that rule 82(4) is complied with.

(6) A management company may deal in units at a price calculated by reference to the first valuation point after restart of dealing in units.

Creation  
and

**84.**-(1) A management company shall instruct the trustee in writing to

create or cancel units of a fund.

(2) A trustee shall create or cancel units immediately on receipt of, and in accordance with, the instructions given by the management company.

(3) A management company shall not, when giving instructions to the trustee for the creation or cancellation of units, do or omit to do, anything which would confer on itself or a delegate a benefit at the expense of a unit holder or a potential unit holder.

(4) Any instruction for the creation or cancellation of units may be modified but only if the trustee agrees and has taken reasonable care to determine that—

- (a) the modification corrects an error in the instruction; and
- (b) the error is an isolated one.

(5) Any error referred to in sub rule (4) of this rule shall be corrected within the payment period stated under sub rules (6) and (7) of this rule.

(6) A management company shall pay the trustee the value of units created within 10 days of giving instructions to the trustee to create units.

(7) A trustee shall pay the management company the value of units cancelled within 10 days of receiving instructions from the management company to cancel units.

(8) The trustee may extend the period where the fund does not have sufficient cash or liquid assets, and the trustee considers that payment within 10 days is not in the best interests of unit holders.

(9) Sub-rule (6) and (7) of this rule shall not be applicable for non-cash transactions.

**85.**-(1) Notwithstanding any other provision under these rules, a trustee may by notice to the management company refuse to-

- (a) create units;
- (b) cancel units; or
- (c) create or cancel units in the number instructed by the management company,

where the trustee considers the creation or cancellation is not in the best interests of unit holders or it would result in a breach of the deed, these rules or securities laws.

**86.**-(1) The price of a fund's unit shall be published daily in at least one

of Price  
of a Unit  
(for  
Unlisted  
Fund)

newspaper with wide circulation in the country in both English and Kiswahili languages.

(2) The unit price published shall be the latest price per unit of the day, before the relevant newspaper ceases to accept material for publication in the next edition.

(3) The unit price published in the newspaper shall be rounded to four decimal places.

## **PART XVI PUBLIC OFFERINGS AND LISTINGS**

Methods  
of Offering  
of Units

**87.**-(1) The methods of offering of units chosen shall enable the fund to have a broad base of unit holders and comply with the shareholding spread requirements of Stock Exchange.

(2) The Authority reserves the discretion to vary the methods of offering chosen by the fund in the interests of the securities market and the public.

(3) A real estate investment trust shall be required to, as part of its listing scheme, undertake an offering of units to the general public and the units offered under the (balloted) public offer portion shall constitute at least—

(a) 5% of the approved fund size for a fund with total asset value of up to TZS 500 million; or

(b) 2% of the approved fund size, or an aggregate of 10 million units, whichever is higher, for a fund with total asset value of above TZS 500 million.

(4) Expenses incurred relating to an offer for sale or restricted offer for sale of units shall be borne by the offeror.

Placement  
Of  
Units

**88.**-(1) An Adviser shall act as the placement agent (or joint placement agent, where applicable) for any placement of units under an initial public offering.

(2) For the purpose of this Part, an adviser shall be a person licensed by the Authority as a Dealer or Investment Adviser.

(3) Neither the Adviser nor any other placement agent may retain any unit being placed for its own account, except under the following circumstances:

- (a) where such units are taken up following an underwriting agreement (in the event of an under-subscription); or
- (b) where such units being retained are over and above the total number of units required to be in the hands of public unit holders, to meet the unit holding spread requirement of stock exchange.

(4) The retention of units for the purposes of sub rule (2) of this rule, shall not result in the Adviser or placement agent holding, whether directly or indirectly, 5% or more of the approved fund size.

(5) Units shall not be placed with persons connected to the placement agent, except under the following circumstances:

- (a) where such persons connected to the placement agent are—
  - (i) statutory institutions managing funds belonging to contributors or investors who are members of the public; or
  - (ii) entities established as collective investment schemes which are considered to represent public investors; or
- (b) where the placement is made following a book-building exercise, in which case—
  - (i) the placement agent/book-runner shall establish internal arrangements to prevent the persons connected to it from accessing the book;
  - (ii) the placement agent/book-runner shall fully inform the management company and obtain the management company's consent before inviting persons connected to it to bid for the units;
  - (iii) the persons connected to the placement agent/bookrunner shall disclose to the placement agent/bookrunner and the management company, the bid amounts which they have put in for their own/proprietary account and/or customer account, as applicable; and
  - (iv) the allocation to persons connected to the placement agent/book-runner shall be consistent with the allocation policy that has been communicated to and agreed by the management company of the fund, including the number of units to be allocated to a single party.

(6) The aggregate number of units placed with persons connected to the placement agent under sub rule (5) of this rule shall not be more than 25% of the total number of units made available for placement by the placement agent.

(7) Placement of units shall not be made to—

- (a) existing unit holders of the fund or persons connected to them, whether in their own names or through nominees, except under restricted offers stated in sub rule (10) of this rule; and
- (b) nominee companies or trusts unless the names of the ultimate beneficiaries are disclosed.

(8) As soon as practicable after the placement exercise and prior to the listing of the fund, the adviser shall submit to the Authority the following:

- (a) the final list (by each placement agent) setting out the names, home/business addresses, identity card/passport/company registration numbers, occupations/principal activities and Central Depository System (CDS) account numbers of all the placees and the ultimate beneficial owners of the units placed (in the case where the placees are nominee companies or funds), and the amount and price of units placed to each placee; and
- (b) a confirmation from the Lead Adviser that to the best of its knowledge and belief, after having taken all reasonable steps and made all reasonable enquiries, the details set out in the final list of placees in paragraph (a) above are accurate and the placement exercise complies with the requirements on placement as stated in these rules.

(9) The information on the ultimate beneficiaries of the units as required in sub rule (8)(a) need not be submitted for the following types of placees:

- (a) statutory institutions managing funds belonging to contributors or investors who are members of the public;
- (b) unit trust funds or prescribed investment schemes approved by the Authority; and
- (c) collective investment schemes which are authorized, approved or registered investment schemes incorporated, constituted or domiciled in a jurisdiction other than Tanzania and regulated by the relevant regulatory authority in that jurisdiction, subject to the Lead Adviser confirming to the Authority that such schemes have been duly authorized, approved or registered.

(10) The Authority reserves the discretion to require submission of further information on the placement exercise and the placees as it may consider necessary for the purpose of establishing the propriety of the exercise or the independence of the placees.

Restricted Offers

**89.-** Restricted offers for sale and restricted offers for subscription which are undertaken as part of the listing scheme may only be made to the following groups of persons:

- (a) directors and employees of the management company;
- (b) directors and employees of the subsidiary/holding company of the management company;
- (c) other persons who have contributed to the success of the real estate, such as long-term tenants in which case if they are business entities, the management company shall ensure that the fund's units are allocated to those business entities rather than their officers and employees, except where the business entities are sole proprietorships or partnerships (in which case the units may be allocated to the sole proprietor or partners); and
- (d) shareholders of the holding company of the management company, if the holding company is listed.

Public Offerings and Listings

**90.-** The aggregate amount of units which may be offered to the groups of persons under rule 89 (a), (b) and (c) shall not be more than 10% of the approved fund size upon listing or 25% of the units offered, whichever is lower.

Underwriting

**91.-(1)** Underwriting arrangements shall be in place before the offering of units is made, except for which–

- (a) certain unit holders or investors have given written irrevocable undertakings to subscribe; or
- (b) the offering is made via a book-building exercise.

(2) Underwriting shall be arranged on a minimum level of subscription basis as determined by the management company based on factors such as the level of funding needed by the fund and the extent of the shareholding spread required.

(3) The minimum level of subscription together with the basis for its

determination shall be disclosed in the submission to the Authority and in the offer document issued for the initial public offering.

(4) The adviser shall be part of the syndicate of underwriters for the units offered under the initial public offering and shall submit the full list of underwriters, together with their respective underwriting commitments, to the Authority prior to the issuance of the prospectus.

## **PART XVII**

### **ISSUES OF SECURITIES BY A REAL ESTATE INVESTMENT TRUST**

Requisite  
approval

**92.-** Any issuance of new units shall , in the case of –

- (a) a listed fund, be subject to unit holders' approval; and
- (b) both listed and unlisted fund, be subject to the Authority's authorization under sections 115 and 117 of the Act.

Application  
of this  
part

**93.-(1)** Sub Part A sets out the requirements for issues and listings of units by a listed real estate investment trust.

Listed funds  
Issues of  
Units for  
Cash (Other than Rights  
Issues)

**94.-(1)** Where the holders of a fund have, through a resolution in a general meeting, given a general mandate to the management company to issue units, any issue of units under such general mandate shall comply with the following requirements:

- (a) the number of units to be issued, when aggregated with the number of units issued during the preceding 12 months, shall not exceed 20% of the approved fund size;
- (b) placement to one single placee for the number of units to be issued under paragraph (a) shall not exceed 10% of the approved fund size;
- (c) units shall not be placed at more than 10% discount to the weighted average market price of the units for the five market days immediately prior to the price-fixing date;
- (d) the Lead Adviser shall act as the placement agent for the placement of units; and
- (e) Units shall not be placed to–
  - (i) interested persons of the management company, whether in their own names or through nominees;



- (ii) persons connected to the interested persons mentioned in subparagraph (i) above; or
- (iii) nominee companies, unless the names of the ultimate beneficiaries are disclosed.

(2) Where an issue of units departs from any of the applicable requirements stipulated in sub rule (1) of this rule, the following requirements shall be complied with:

- (a) the management company shall obtain unit holders' approval by way of an ordinary resolution for the precise terms and conditions of the issue, in particular on—
  - (i) the persons to whom the units will be issued (hereafter referred to as “placees”);
  - (ii) the amount of units to be placed to each placee;
  - (iii) the issue prices of the units or, in a situation where such prices are to be determined after the date of the unit holders' approval, the basis or formula of determining such prices; and
  - (iv) the purposes of the issue and utilization of proceeds.
- (b) where units are issued to interested persons or persons connected to them as mentioned in sub-rule (1)(e)(i) and (ii), such persons shall abstain from voting on the resolution approving the issue; and
- (c) where a placement agent is appointed for a placement of units, the Lead Adviser shall act as the placement agent.

(3) Subject to compliance with the stated requirements, a management company proposing to undertake an issue and placement of units in stages over a period of time shall state its intention to do so and the rationale or justification in the submission to the Authority.

Provided that, prior to each stage of new issue and placement of new units, the management company, shall update the Authority on the new issue.

(4) The allotment and issuance of units shall be effected as soon as possible after the price-fixing date.

(5) In any event, payment for units issued shall be made by placees to

the fund within five market days from price fixing date.

(6) For issue of units under sub rule (1) of this rule, the price-fixing date shall be taken as the date of the unit holders' approval, except in instances where the price is determined on a date subsequent to the unit holders' approval.

(7) As soon as practicable after the issue and prior to the listing of the new units arising from the issue, the adviser shall submit the following to the Authority:

- (a) the final list setting out the names, home/business addresses, identity card/passport/company registration numbers, occupations/principal activities and Central Depository System (CDS) account numbers of all the placees and the ultimate beneficial owners of the units issued/placed (in the case where the placees are nominee companies or funds), and the amount and price of units issued/placed to each placee;
- (b) for issues of units which depart from any of the applicable requirements stipulated in sub rule (1) of this rule, a copy of the offer document to unit holders; and
- (c) a confirmation from the Adviser that to the best of its knowledge and belief, after having taken all reasonable steps and made all reasonable enquiries, the details set out in the final list of placees in paragraph (a) above are accurate and the issue/placement exercise complies with the requirements as stated.

(8) The information on the ultimate beneficiaries of the units as required in sub rule (7)(a) of this rules need not be submitted for the following types of placees:

- (a) statutory institutions managing funds belonging to contributors or investors who are members of the public;
- (b) unit trust funds or prescribed investment schemes approved by the Authority; and
- (c) collective investment schemes which are authorized, approved or registered investment schemes incorporated, constituted or domiciled in a jurisdiction other than Tanzania and regulated by the relevant regulatory authority in that jurisdiction, subject to the Lead Adviser confirming to the Authority that such schemes have been duly authorized, approved or registered.

(9) The Authority may require submission of further information on the issue/placement exercise and the placees if necessary, for establishing the propriety of the exercise and independence of the placees.

**95.**-(1) Underwriting arrangements shall be in place before the offering of units is made to existing holders, other than those units for which certain holders have given written irrevocable undertakings to subscribe.

(2) Underwriting and/or undertakings to subscribe by the holders are allowed to be arranged on a minimum level of subscription basis.

(3) The following requirements shall apply where certain holders wish to irrevocably undertake to subscribe for the units offered under the rights issue:

- (a) The holders shall confirm to the Authority that they have sufficient resources to take up the units and the confirmation shall be verified by an acceptable independent party, preferably the Lead Adviser making the application to the Authority for the rights issue; and
- (b) The holders shall submit on how they will comply with the *Capital Markets and Securities (Substantial Acquisitions, Take over and merger) Regulations, 2006*, if applicable.

(4) Where underwriting is arranged for the units offered under the rights issue, the Lead Adviser making the application to the Authority shall be part of the syndicate of underwriters and the full list of underwriters, together with their respective commitments, shall be submitted by the Lead Adviser to the authority for its records and the Authority shall be informed immediately if there are any subsequent changes.

**96.**-(1) A management company proposing to issue units to finance a proposed acquisition of real estates, or refinance an acquisition of real estates which is completed within one year prior to the submission to the Authority, shall ensure the following requirements are met:

- (a) compliance with Part VII of these rules on investments in real estates;
- (b) Adequate justification of the benefits of the acquisition must be provided; and
- (c) Subject to Part XII, valuation of the real estates and purchase consideration for the acquisition shall be appropriately justified and adequately substantiated.

(2) The Lead Adviser or the management company (as the case may be) shall comment on the reasonableness of the terms and conditions of the acquisition, including the purchase consideration, in the submission to the Authority.

(3) Where the assets are to be acquired from a related party, the management company shall ensure compliance with the applicable requirements under Part XI of these rules.

Issues of  
debentures  
to Finance  
Acquisitions  
of Real  
Estates

**97.**-(1) A management company may, through a special purpose vehicle wholly owned by the fund, issue debentures to finance acquisition of real estate and single-purpose companies.

(2) The issues of debentures shall comply with any requirements for the offering of private debt Securities, Guidelines for Issuance of Corporate bonds and commercial papers and any directives or guidelines issued by the Authority.

(3) The total amount raised from the issues of debentures is subject to the total borrowing limit of the fund stipulated under rule 59(4) of these rules.

Issues of  
Bonus  
Units

**98.**- Where a revaluation surplus is to be utilized for the issuance of bonus units, only up to 90% of such surplus may be capitalized as bonus units.

## **PART XVIII OPERATIONAL MATTERS**

Size of Real  
Estate  
Investment  
Trusts

**99.**-(1) The initial size of a real estate investment trust fund shall be at least TZS 10 billion .

(2) In determining the size of the fund, a management company shall take into account its resources, expertise, experience, and overall capability to carry out its duties in accordance with—

- (a) the deed;
- (b) these rules and securities laws; and
- (c) acceptable and efficacious business practices within the real estate investment trust industry.

(3) The Authority reserves the right to review the reasonableness of

the size of the fund, taking into consideration the resources, expertise, experience, and overall capability of the management company.

Register  
of  
Holders

**100.-** (1) As prescribed under the CIS regulation 37, a management company shall keep and maintain an up-to-date register of holders at the registered office of the management company.

(2) The register of unit holder shall be replicated by the trustee and pursuant to Regulation 5 (i) of the CIS Regulations shall be updated depending on the daily dealing at the management company.

(3) For the purpose of sub rule (1) of this rule, a management company shall–

- (a) take reasonable steps to alter the register upon receiving written notice of a change of name or address of any unit holder; and
- (b) furnish any unit holder an extract of the register relating to that unit holder on request.

(4) A management company may, on giving not less than 14 days notice to the Authority, close the register of unit holders at any time, but no part of the register shall be closed for more than 30 days in aggregate in any calendar year.

(5) Any unit holder, trustee or other person aggrieved by the inclusion or exclusion, or the manner of inclusion or exclusion of any name in the register may seek legal recourse for the rectification of the register.

Branch  
Register

**101.-**(1) A management company may keep a branch register of unit holders anywhere outside Tanzania which shall be deemed to be part of the register of holders.

(2) A management company shall, pursuant to the CIS Regulation 37(2), notify the Authority in writing of the location of the office where any branch register is kept.

Distribution  
of  
Income

**102.-**(1) The fund shall distribute to unit holders as dividends each year an amount not less than 90% of its annual net income after tax.

(2) Distribution of income shall only be made from realized gains or realized income.

(3) The distribution of income shall be made after the management company has taken into consideration the following:

- (a) total returns for the period;
- (b) income for the period;
- (c) cash flow for distribution;
- (d) stability and sustainability of distribution of income; and
- (e) the investment objective and distribution policy of the fund.

(4) Where a distribution is made, the management company shall send to every unit holder a statement detailing relevant information on the income distribution.

(5) The statement in sub rule (4) of this rule shall include the following information:

- (a) Total returns of the fund; and
- (b) NAV per unit prior to, and subsequent to, the distribution.

(6) For interim distribution, a management company may, instead of sending a statement required under sub rule (4) of this rule, choose to publish the same information in an advertisement in at least one widely circulated English and Kiswahili newspaper.

Conflict  
of  
Interest

**103.**-(1) A management company, a trustee, and any delegate or service provider shall avoid potential conflicts of interest situations from arising, or if conflicts arise, shall ensure that the fund is not disadvantaged by the transaction concerned.

(2) Any related-party transaction, dealing, investment, and appointments involving parties to a fund shall be made on terms which are the best available for the fund and which are no less favourable to the fund than an arm's length transaction between independent parties.

(3) The appointment or renewal of appointment of any delegate or service provider who is a related party of the management company shall be approved by the independent directors of the management company.

Rebates  
and Soft  
Commission

**104.**- (1) A management company, a trustee or its delegates shall not retain any rebate from, or otherwise share in any commission with, any broker/ dealer in consideration for directing dealings in a fund's property and any rebate or shared commission shall be directed to the account of the

fund concerned.

(2) Notwithstanding sub rule (1) of this rule, a management company or its delegate may retain goods and services (soft commission) provided by any broker/ dealer if they are of demonstrable benefit to unit holders and—

- (a) dealings with the broker/dealer are executed on terms which are the best available for the fund; and
- (b) the management company's or delegate's soft commission practices are adequately disclosed in the prospectus and fund reports (including a description of the goods and services received by the management company or delegate).

(3) Soft commissions which are not allowed include, among others, entertainment allowance, travel, accommodation, and membership fee.

(4) Where sub rule (3) of this rule applies, the compliance officer shall verify and inform the management company's board of directors (or audit and compliance committee, if any) that any goods or services received by the management company or its delegate, comply with the guidelines requirements.

Documents  
For  
Inspection  
by Unit  
Holders

**105.-(1)** A management company and a trustee shall make available at their principal place of business the following documents:

- (a) the deed and the supplementary deed(s) of the fund (if any);
- (b) the current offer document and the supplementary/replacement offer document of the fund (if any);
- (c) the latest annual and interim reports of the fund (if any);
- (d) each material contract or document referred to in the offer document;
- (e) all reports, letters or other documents, valuations and statements by any expert, any part of which is extracted or referred to in the offer document;
- (f) the audited accounts of the management company and the fund for the last three financial years or from the date of incorporation/commencement (if less than three years);

- (g) latest audited accounts of the management company and the fund for the current financial year (where applicable); and
- (h) any consent given by experts or persons named in the offer document as having made a statement that is included in the offer document or on which a statement made in the offer document is based,

for inspection by investors and unit holders at all times (without charge) during the ordinary business hours of the management company and the trustee.

terminating/  
winding up  
a fund

**106.-(1)** A fund may be terminated or wound up upon the occurrence of any of the following events:

- (a) revocation of the Authority's approval under section 122(1) of the Act;
- (b) passing of a special resolution at a unit holders' meeting to terminate or wind up the fund, following occurrence of events stipulated under section 122(2) of the Act and the court has confirmed the resolution, as required under section 122(5) of the Act;
- (c) the fund reaching its maturity date as specified in the deed;
- (d) the effective date of an approved transfer scheme has resulted in the fund, which is the subject of the transfer scheme, being left with no asset/property.

(2) Upon the occurrence of any of the events under sub rule (1) of this rule –

- (a) Part VIII (Investments of the Real Estate Investment Trust) and Part XIV (Pricing and Dealing) shall cease to apply to the fund;
- (b) the trustee should cease to create and cancel units;
- (c) dealing in units shall cease; and
- (d) the trustee shall proceed to wind up the fund in accordance with sub rules (3) and (4) of this rule.

(3) where an event under sub rule (1)(d) occurs, the trustee shall proceed to wind up the fund in accordance with the approved transfer



scheme.

(4) In any other event under sub rule (1) of this rule, the trustee shall with approval of the Authority –

- (a) sell all the fund's property remaining in its hands;
- (b) after paying or retaining adequate amount for all liabilities payable and cost of winding up, distribute to unit holders the net cash proceeds available for the purpose of such distribution in proportion to the number of units held by unit holders respectively; and
- (c) pay any unclaimed net proceed or other cash held by the trustee that remains unclaimed after 12 months from the date on which it became payable to the an account in any bank to be termed as Unclaimed Monies, and inform the authority of the details of such account within seven days of making such deposit .

(5) The management company or trustee shall as soon as practicable after the termination or winding up of the fund–

- (a) (where unit holders' resolution for the termination/winding up is not obtained) inform unit holders of the termination or winding up of the fund; and
- (b) publish a notice on the termination or winding up of the fund in one nation wide circulated newspaper in both Kiswahili and English languages

(6) The management company and trustee shall notify the Authority in writing–

- (a) upon the passing of a resolution to terminate or wind up the fund, or upon the court confirming the unit holders' resolution to terminate or wind up the fund; and
- (b) upon the completion of the termination and winding up of the fund.

(7) Where a fund is being terminated or wound up, the trustee shall arrange for the auditor of the fund to conduct a final review and audit of the fund's accounts.

during terminaton/  
winding Up

- (a) the accounting period continues to run; and
- (b) annual and interim reports (where applicable) shall continue to be required, unless after consulting the auditor and the Authority, the management company has taken reasonable care to determine that timely production of an annual or interim report is not required in the interests of unit holders.

Transfer  
Schemes

**108.**-(1) A transfer scheme is an arrangement to transfer fund property from a fund (transferor fund) to another fund (transferee fund).

(2) A management company shall ensure that the unit holders of the transferor fund do not become unit holders of a fund other than a fund approved by the Authority.

(3) A transfer scheme shall not be implemented without the sanction of—

- (a) a special resolution of unit holders of the transferor fund; and
- (b) a special resolution of unit holders of the transferee fund.

(4) If the management company and trustee or other persons providing oversight functions for the transferee fund or the auditor of the transferee fund agree that the receipt of the property concerned for the account of the transferee fund—

- (a) is not likely to result in any material prejudice to the interest of unit holders of the transferee fund;
- (b) is consistent with the investment objective of the transferee fund; and
- (c) could be effected without any breach of Part VIII (Investments of the Real Estate Investment Trust);

then, the transfer scheme may be implemented and the issue of units in exchange for the transferor fund's property may be undertaken.

Corporate Governance

**109.**-(1) A management company shall adhere to good corporate governance principles and best industry standards for all activities conducted in relation to the fund and any matter arising out of its listing or trading on any stock exchange.

(2) The trustee, property manager, independent qualified valuer, and any other delegates or service provider of the fund shall observe the best of corporate governance standards.

## **PART XIX REPORTING AND AUDIT**

### Reporting Requirements

**110.**-(1) A management company shall prepare, in the case of a fund –

- (a) an annual report of the fund; and
- (b) interim report of the fund,

to provide all necessary information to enable unit holders to evaluate the performance of the fund.

(2) An interim report of an unlisted fund need not be prepared for a new fund where the first accounting period is less than 6 months.

(3) Where a management company intends to change a fund's annual or interim financial period (where applicable), the management company shall obtain–

- (a) a written confirmation from the fund's auditor that the change would not result in any significant distortion to the financial position of the fund; and
- (b) the Authority's prior consent before implementing the change.

### Contents of Fund Reports

**111.**-(1) An annual report of a fund shall contain at least the following:

- (a) fund information;
- (b) report on fund performance;
- (c) Manager's report;
- (d) Trustee's report;
- (e) Audited financial statements for the accounting period; and
- (f) Auditor's report.

(2) An interim report of a fund shall contain at least the following:

- (a) Fund information;
- (b) Report on fund performance;
- (c) Manager's report;
- (d) Trustee's report;
- (e) Financial statements for the interim accounting period.

(3) The minimum and detailed information to be included in the fund's reports are stipulated in Fourth Schedule to these rules.

Publication  
of  
Reports

**112.**-(1) A management company shall—

- (c) prepare and publish the annual and interim reports (where applicable) of the fund;
- (d) send the annual and interim reports without charge to the unit holders; and
- (e) lodge the annual report and deliver the interim report (where applicable) to the Authority; within two months after the end of the financial period the report covers.

(2) A unit holder may at anytime prior to the issue of an interim report request from the Manager, a report on the performance of the fund.

Audit

**113.**-(1) Every scheme shall have the annual statement of accounts audited by an auditor who shall not in any way be associated with the auditor of the management company or trustee.

(2) The auditor shall be appointed by the trustee.

(3) Where the Authority is of the opinion that the auditor appointed by the trustee is not suitable, or where an auditor has not been appointed, the Authority may direct the trustee to replace or appoint an auditor to the fund in accordance with the requirements of this Part.

(4) A trustee for the reasons to be recorded in writing may remove the auditor of the fund for misconduct or inefficiency after giving the auditor a reasonable opportunity of being heard provided that another auditor for the scheme is appointed by the Trustee immediately from the list approved by the Authority.

(5) in addition to sub rule (4) of this rule. unit holders may, by way of an ordinary resolution, request the trustee to replace the auditor.

(6) The auditor shall forward his report to the trustee and such report shall form part of the Annual Report of the scheme.

(7) The auditors report shall comprise the following:

(a) A certificate to the effect that-

- (i) he has obtained all information and explanations which, to the best of his knowledge and belief, were necessary for the purpose of the audit;
- (ii) the balance sheet and the revenue account give a fair and true view of the scheme, state of affairs and surplus or deficit in the scheme for the accounting period to which the balance sheet or as the case may be;
- (iii) the statement of account has been prepared in accordance with account policies and standards as specified by the Authority;

(b) Any other matter which in the opinion of the auditor is vital and has a bearing on the scheme.

(8) The auditor of the scheme shall, as soon as possible, notify the Authority and the trustee in writing if he has reasonable grounds to suspect that a contravention of the regulations has occurred or if the scheme is not conducted on sound commercial principles.

(9) The auditor of the scheme-

- (a) shall have a right of access at all reasonable times to the books and records of the scheme; and
- (b) may inquire any employee of the management company to give the auditor information and explanations for the purpose of the audit.

Co-operation  
with  
Auditors

**114.-(1)** A management company shall take reasonable steps to ensure that its employees-

- (a) provide such assistance as the auditor reasonably requires to discharge its duties;

- (b) give the auditor right of access at all reasonable times to relevant records and information;
- (c) do not interfere with the auditor's ability to discharge its duties;
- (d) do not provide false or misleading information to the auditor; and
- (e) report to the auditor any matter which may significantly affect the financial position of the fund.

(2) A management company shall, in writing, require any person to whom the management company has delegated or outsourced any function to co-operate with the fund's auditor in accordance with the provisions specified in sub rule (1) of this rule.

## **PART XX**

### **APPLICATIONS, NOTIFICATIONS, AND REPORTING**

Authority's approval or authorization

**115.**-(1) The Authority's approval or authorization as the case may be, shall be sought for the following matters:

- (a) issuance or offer of units of a real estate investment trust;
- (b) listing of units on a stock market of a stock exchange;
- (c) a company to act as management company for a fund; and
- (d) a company to act as trustee for a fund.
- (e) A fund's Deed and supplementary deed; and
- (f) The fund's Offer document, Prospectus or information Memorandum and supplementary/replacement thereof of the fund.

(2) On receipt of any application or submission pursuant to these rules, the Authority may—

- (a) approve it subject to certain terms and conditions as it deems fit;
- (b) approve it with revisions and subject to certain terms and

conditions as it deems fit; or

- (c) grant an exemption from the requirements of any of these rules; or
- (d) reject it and give reasons for such rejection.

(3) Before rejecting any such application pursuant to sub rule (2)(d), the Authority shall give the applicant a one month opportunity to remove such objection as may be indicated by the Authority.

(4)The Authority may direct the applicant to furnish such further information or clarification as may be required by it, for the purpose of processing the application.

(5) The Authority, if it so desires, may require the applicant or its authorized representatives to appear before the authority for personal representation in connection with the authorization that is being requested by the applicant.

(6) In addition to sub rule (1) of this rule, the following shall be submitted for the Authority's approval:

- (a) valuation of real estates (including real estates held by single purpose companies) to be acquired by the fund for purposes set out under rule 68 of these rules;
- (b) exemption or variation from provisions in these rules;
- (c) extension of time to comply with the requirements of these rules and terms and conditions of approval;
- (d) appointment of a delegate that is not a holder of a Capital Markets and Securities Authority's licence;
- (e) appointment of a trustee under section 117(b) of the Act;
- (f) reconstruction, amalgamation or any change in the shareholding of a management company affecting its eligibility to be a management company of a real estate investment trust; and
- (g) all advertisements to be issued or published in the media before and after the approval of the offer document.

(7) Applications shall be submitted in accordance with the

requirements stipulated under Fourth Schedule to these rules.

(8) An application for approval for the establishment of a real estate trust shall , subject to regulation 4(2)(d) of the CIS regulations, be accompanied by the following fees:

- (a) Trustees' approval fee.....3,000,000
- (b) Management company approval fee.....3,000,000
- (c) Renewal of Trustee and Management.....2,000,000
- (d) Subject to rule 115(8)(d), Trust deed and Real Estate Investment Trust establishment approval fee.....15,000,000 plus 0.05% of the amount exceeding TZS 10 billion
- (e) Annual fee payable by real estate investment scheme.....7,500,000 plus 0.02% of the amount TZS 10 billion.

Notifications  
to the Authority

**116.**-(1) A management company shall notify the Authority of, among others, the following:

- (a) appointment and resignation of directors;
- (b) appointment and resignation of chief executive officer;
- (c) appointment and resignation of an investment committee member, if any;
- (d) appointment of a delegate that is a holder of a Capital Markets Licence;
- (e) appointment and resignation of the property manager and any delegates;
- (f) acquisition of real estates;
- (g) disposal of real estates;
- (h) foreign markets in which the fund invests in;
- (i) a resolution passed (and court confirming where applicable) to terminate/wind up a fund; and



- (j) completion of the termination/winding up of a fund.

(2) All notification shall comply with the requirements stipulated in Fourth Schedule to these rules.

Reporting  
requirements

**117.-**A management company shall submit to the Authority the following –

- (a) annual report of the fund and the management company;
- (b) the interim report of the fund;
- (c) notices/circulars issued to unit holders; and
- (d) a statistical and compliance return (collectively referred to as “REIT Returns”) of the fund in accordance with the requirements set out under Fifth Schedule to these rules.
- (e) any information that may have an impact on the fund or the operations of the management company.

## **PART XXI INSPECTION AND AUDIT**

Authority’s  
right to  
inspect  
and investigate

**118.-** The Authority may appoint one or more persons as inspecting officers to undertake the inspection of the books of accounts, records, documents and infrastructure, systems and procedures or to investigate the affairs of the Trustee or management company for any of the following purposes, namely:

- (a) to ensure that the books of accounts are being maintained by the management company in the manner specified in these rules;
- (b) to ascertain whether the provisions of the deed, these rules and securities or any other relevant law are being complied with by the trustee and management company ;
- (c) to ascertain whether the systems, procedures and safeguards followed by the trustee and management company are adequate;
- (d) to investigate into the complaints received from the investors or

any other person on any matter having a bearing on the activities of the trustee and Management Company;

Notice before inspection and investigation

**119.**-(1) Before ordering an inspection under rule 120 the Authority shall give not less than ten days notice to the Trustee or the management company as the case may be.

(2) Notwithstanding anything contained in sub-rule (1) of this regulation, where the Authority is satisfied that in the interest of the investors no such notice is required to be given, it may, by an order in writing, direct that such inspection or investigation be taken up immediately without any notice.

(3) During the course of inspection or investigation, the trustee or management company against whom the inspection or investigation is being carried out shall be bound to discharge its obligations as provided in rule 122.

Obligations during inspection and investigation

**120.**-(1) It shall be the duty of every trustee or Management Company whose affairs are being inspected or investigated, and of every director, officer and employee thereof, to produce, within such reasonable period as the inspecting officer may specify, such books, accounts, records, and other documents in its custody or control and furnish such statements and information relating to the activities as trustee or management company, as the inspecting officer may require.

(2) The trustee or management company shall allow the inspecting officer to have access to the premises occupied by it or by any other person on its behalf and also provide necessary infrastructure for examining any books, records, documents, and computer data in the possession of the trustee and the management company or such other person and also provide copies of documents or other materials which in the opinion of the inspecting officer are relevant for the purpose of the inspection.

Submission of the report to the Authority

**121.**-(1) The inspecting officer shall, on completion of the inspection or investigation, submit a report to the Authority.

(2) Notwithstanding sub rule (1) of this rule, the Authority may direct the investigating officer to submit an interim report.

Appointment of Auditor and recovery of expenses

**122.**-(1) Without prejudice to the provisions of rule 120, the Authority shall have the power to appoint an auditor to inspect or investigate, as the case may be, into the books of accounts or the affairs of

the trustee or management company in respect of any scheme.

(2) The Auditor so appointed pursuant to sub rule (1) of this rule, shall have the same powers of the inspecting officer as stated in regulation 120 and the obligation of the trustee or management company and their respective employees, shall be applicable to the inspection under this regulation.

Payment of inspection fees to the Authority

**123.-** The Authority shall be entitled to recover from the Trustee, Management Company or the fund as the case may be such expenses including fees paid to the auditors as may be incurred by it for the purposes of inspecting the books of accounts, records and documents of the trust, the fund or management company.

## **PART XXII**

### **PROCEDURE FOR ACTION IN CASE OF DEFAULT**

Liability for action in case of default

**124.-** Where a trustee or management company –

- (a) contravenes any provision of the Act or these rules;
- (b) for the purposes of these rules furnishes any information which is false or misleading or suppresses any material information;
- (c) does not co-operate in any inspection, investigation or inquiry conducted by the Authority under the Act or these rules;
- (d) fails to comply with any directions issued by the Authority under the Act or the rules;
- (e) fails to resolve the complaints of the investors or fails to furnish to the Authority a satisfactory reply in this behalf when called upon to do so by the Authority;
- (f) commits a breach of any provision of the Code of Conduct specified in the Second Schedule;

- (g) fails to pay the fees specified in these rules;
- (h) commits a breach of the conditions of authorization; or
- (i) fails to make an application for listing or fails to list units of a scheme in a recognized stock exchange;

shall be dealt with in the manner provided in the Act, any rules of a stock exchange or the Capital Market and Securities Authority Enforcements Guidelines 2002.

Directions by the  
Authority

**125.-** The Authority may, in the interests of the securities market and the investors and without prejudice to its right to initiate action under this Part, give such directions as it deems fit in order to ensure effective observance of these regulations, including directions,

- (a) requiring the real estate investment trust not to collect any money from investors or to launch any scheme;
- (b) prohibiting real estate investment trust from disposing of any of the properties of the scheme acquired in violation of these regulations;
- (c) requiring real estate investment trust to dispose of the assets of the scheme in a manner as may be specified in the directions;
- (d) requiring real estate investment trust to refund any money or the assets to the concerned investors along with the requisite interest or otherwise, collected under the scheme.
- (e) prohibiting real estate investment trust from operating in the capital market or from accessing the capital market for a specified period.

Action against  
intermediaries

**126.-(1)** The Authority may initiate action for suspension of business of an intermediary authorized under the Act who fails to exercise due diligence in the performance of its functions or fails to comply with its obligations under these rules.

(2) The Authority shall not suspend any business of an intermediary unless the procedure specified in these rules applicable to such intermediary is complied with.

Effect  
of suspension  
or cancellation  
of certificate  
of registration

**127.**-(1) On and from the date of the suspension or business, the trustee or management company shall cease to carry on any activity (during the period of suspension in case of suspension), and shall be subject to the directions of the Authority with regard to any records, documents, or assets that may be in its custody or control, relating to its activities.

(2) While passing an order of suspension or, the Authority may also direct termination of scheme within such period and in such manner as may be directed.

(3) For the purpose of this sub-rule (2) of this rule, 'termination of scheme' shall mean liquidation of the asset pool and repayment of the proceeds thereof to the unit holders in the scheme.

### **PART XXIII MISCELLANEOUS**

Interpretation or  
clarifications

**128.**-(1) In order to remove any difficulties in the application or interpretation of these regulations, the Authority shall have the power to issue clarifications or guidelines in the form of notes or circulars which shall be binding on the trustee or management company or any other intermediary involved in the operations of REIT in the capital market.

(2) The interpretation or clarification made by the Authority pursuant to this rule shall not be inconsistent with the Act, the Capital Markets and securities(Collective Investment Schemes) Regulations or these rules.

(3) The powers exercisable by the Authority under these rule shall also be exercisable by any officer of the Authority to whom such powers are delegated in writing.

Fit and  
Proper  
Criteria

**129.**-(1) The Trustee and management company shall ensure that all their key personnel and directors are vetted by the Authority.

(2) the Authority shall when vetting the key personnel of the management company and Trustee pursuant to sub rule(1) of this rule, satisfy itself that the vetted person record shows that he fulfills the following fit and proper criteria:

(a) he is of good reputa and character;

(b) he observes high standards of integrity and fair dealing in carrying out duties and responsibilities;

- (c) he acts with due skill, care, and diligence in carrying out his duties and responsibilities;
  - (d) he takes reasonable care to ensure that he carries out his duties and functions in accordance with laws; and
  - (e) he possess the necessary qualifications, expertise, and experience, particularly in the respective fields to perform their duties and responsibilities in a fit and proper manner.
- (2) The vetted persons shall not have been involved in any unethical and/or inappropriate practice.
- (3) A person shall be subject to a disqualification, among others, in any of the following events:
- (a) where a petition has been filed under bankruptcy laws or where a person has been declared bankrupt;
  - (b) where a criminal proceeding resulting in conviction for fraud, dishonesty or any other offence punishable with imprisonment of one year or more, anywhere in the world;
  - (c) where any inquiry/investigation has been carried out by any government/ statutory authority or body, in which there is an adverse finding; and
  - (d) where an unethical practice and activity has been committed which would render that person unfit to perform an oversight function.
- (4) The Authority shall assess the ability of the person to carry out the duties and responsibilities required of him.
- (6) Where any person becomes subject to any disqualification or becomes otherwise unfit to hold office, the Authority shall ensure that the person vacates the position immediately and shall notify the management company and the Trustee, as the case may be, of any disqualification.
- (7) Where a vetted person is appointed for more than one fund, he shall be requested to elect to serve in only one fund.

General  
penalty

**130.**-(1) Failure by any person to comply with any requirement under these rules, including breaches of investments limits, constitute a contravention under the Act and the Authority may impose any administrative sanction as it deems appropriate or institute proceedings in accordance with the Act.

(2) The Authority may impose the following administration sanctions for any breach of requirement under this rules:

- (a) censure;
- (b) require a specific performance by the person who committed the breach including initiating a compliance program;
- (c) impose suspension of the management company or Trustee;
- (d) prohibit any transaction to carried out for a period of not more than three months;
- (e) require the person committing the breach to disseminate information to the public on the breach

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**FIRST SCHEDULE**  
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(Made under Rule (20))

**VALUATION PRINCIPLES**

<b>Investment Instruments</b>	<b>Valuation Basis</b>
Real estate	Bases and methods as prescribed under the International Standards on Asset Valuations
Securities listed on any exchange	<p>Market price.</p> <p>However, if-</p> <ul style="list-style-type: none"><li>a) a valuation based on the market price does not represent the fair value of the securities, for example, during abnormal market conditions; or</li><li>b) no market price is available, including in the event of a suspension in the quotation of the securities for a period exceeding 14 days, or such shorter period as agreed by the trustee,</li></ul> <p>then the securities should be valued at fair value, as determined in good faith by the management company or its fund management delegate, based on the methods or bases approved by the trustee after appropriate technical consultation.</p>
Unlisted bonds	Price quoted by a bond pricing institution registered with the Authority.

denominated in Tanzania Shillings	<p>Where a management company is of the view that the price quoted by bond pricing institution for a specific bond differs from the “market price” by more than 20 basis points, the management company or its fund management delegate may use the “market price” provided that the management company or its fund management delegate-</p> <p>a) records its basis for using a non bond pricing institution price;  b) Obtains necessary internal approvals to use the non bond pricing institution price; and  c) Keeps an audit trail of all decisions and basis for adopting the “market yield”.</p>
Other unlisted bonds	Fair value reference to the average indicative yield quoted by three independent and reputable institutions.
Unlisted collective investment schemes	Last published repurchase price.
Any other investments	Fair value as determined in good faith by the management company or its fund management delegate, on methods or bases which have been verified by the auditor of the real estate investment trust and approved by the trustee and, adequately disclosed in the prospectus of the real estate investment trust.

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## SECOND SCHEDULE

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(Made under Rules 14(2) and 29 (12))

### CODE OF CONDUCT

1. The Trustee and the management company should not be organized, operated, managed or have the portfolio of property selected, in the interest of sponsors, members of Board of trustees, directors of Management Companies, associated persons or in the interest of special class of unit-holders rather than in the interest of all classes of unit-holders of the scheme.
2. The Trustee and the Management Company shall ensure dissemination to all unit holders of adequate, accurate, explicit and timely information fairly presented in a simple language about the investment policies, investment objectives, financial position and general affairs of the scheme.
3. The Trustee and the Management Companies shall avoid excessive concentration of business with real estate firms, broking firms, affiliates and also excessive holding of units in a scheme among a few investors.
4. The Trustee and the Management Company shall avoid conflicts of interest in managing the affairs of the schemes and keep the interest of all unit holders paramount in all matters.



5. The Trustee and the management company must ensure scheme-wise segregation of bank accounts and securities accounts.
6. The Trustee and the management company shall carry out the business and invest in accordance with the investment objectives stated in the offer document and take investment decision solely in the interest of unit holders.
7. The Trustee and the management company shall not only use any unethical means to sell, market or induce any investor to buy their schemes.
8. The Trustee and the management company shall maintain high standards of integrity and fairness in all their dealings and in the conduct of their business.
9. The Trustee and the management company shall render at all times high standards of service, exercise due diligence, ensure proper care and exercise independent professional judgement.
10. The Trustee or the management company shall not make any exaggerated statement, whether oral or written, either about their qualifications or capability to render investment management services or their achievements.

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**THIRD SCHEDULE**  
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(Made under Rule 44 (2))

**THE MINIMUM REQUIREMENT OF THE TRUST DEED**

Under regulation 12 of the CMS (CIS) Regulations, a deed of trust must contain all information and particulars specified in the Third Schedule to the Regulations.

The requirements stipulated in this schedule are in addition to requirements imposed on a management company and trustee under the law. The contents of this schedule are in addition to and not in derogation of any other duty imposed by any other law.

A management company, or its adviser, should submit an application to register and lodge the deeds in accordance with the requirements and procedures set out in Appendix III of Fourth Schedule.

**1.0 Minimum Contents for a Deed**

**1.1 Covenants of the Management Company**

A deed of a real estate investment trust should contain duties of a management company which are prescribed under these Rules and also include, but not limited to, the following covenants:

- (a) It should ensure that the fund has, at all times, an appointed trustee;
- (b) It should pay the trustee, within 10 days after receipt by the management company, any money which, under the deed, is payable to the trustee;

- (c) It should make available, or ensure that there is made available, to the trustee such information as the trustee requires on all matters relating to the fund to which the deed relates;
- (d) It should not exercise the voting rights for the units it holds in any unit holders' meeting, regardless of the party who requested for and called the meeting and the matter or matters that are laid before unit holders;
- (e) It should issue a report to the unit holders to be included in the annual report required under regulations 5 (g) of the CMS (CIS) Regulations;
- (f) It should ensure that it carries on and conducts its business in a proper, diligent and efficient manner in accordance with the deed, the rules, and securities laws, and efficacious business practices within the real estate investment trust industry;
- (g) It should act with due care, skills and diligence in managing the fund and effectively employ the resources and procedures necessary for the proper performance of the fund;
- (h) It should observe high standards of integrity and fair dealing in managing the fund to the best and exclusive interest of the unit holders;
- (i) It should not take on, lease or otherwise acquire any immovable property or any interest therein, except for the purposes of operating real estate investment trusts and those entered into in the ordinary course of business;
- (j) It should ensure that all real estates acquired is insured in the name of the trustee and upon request by the trustee to produce for inspection all relevant insurance policies;
- (k) It should take all necessary steps to ensure that the assets of the fund are adequately protected and properly segregated;
- (l) It should keep proper accounting records and other records relevant to the fund;
- (m) It should take all reasonable steps and exercise due diligence to ensure that the fund's assets or the units of the fund are correctly valued in accordance with the deed, relevant rules, securities laws or valuation standards;
- (n) It should appoint a property manager approved by the trustee to manage real estates held by the fund that possess adequate human resource with necessary qualifications, expertise, and experience in real estate management; and
- (o) It should inform the trustee in writing of any acquisition or disposal of investments of the fund within one day after the acquisition or disposal was effected.
- (p) In addition to paragraph (4) above, the deed of an unlisted real estate investment trust should also contain the following covenants:
  - (i) It should not sell any unit of the fund to which the deed relates,
  - (ii) other than at a price calculated in accordance with the deed;
  - (iii) It should, at the request of a unit holder, purchase units held by the unit holder, and the purchase price will be a price calculated in accordance with the deed; and

- (iv) It should take all reasonable steps and exercise due diligence to ensure that the units of the fund are correctly priced.

## **1.2 Covenants of the Trustee**

A deed of a real estate investment trust should contain duties of a trustee that is prescribed under the CMS (CIS) Regulations and also include, but not be limited to, the following covenants:

- (a) It should ensure that the fund has, at all times, an appointed management company;
- (b) It should exercise all due care, skill, diligence, and vigilance in carrying out its functions and duties, and in safeguarding the rights and interests of unit holders to which the deed relates;
- (c) It should ensure that the management company does not use its position improperly in managing the fund to gain, directly or indirectly, an advantage for itself or for any other person or to cause detriment to the interests of unit holders of such a fund;
- (d) It should keep or cause to be kept, proper books of account for all investments and properties of the fund;
- (e) It should ensure that proper records are kept of all transactions, dividends, interests, rental, and income received and distributed for the fund to which the deed relates;
- (f) It should cause the accounts referred to in (6)(d) to be audited at the end of each financial year by an auditor appointed by the trustee;
- (g) It should act as the custodian of the assets of the fund and actively monitor the administration of the fund by the management company to ensure that the interest of unit holders are upheld at all times;
- (h) It should retain control of the assets of the fund at all times in the event the function of custody of the investment of the fund is being delegated to any person (where applicable);
- (i) It should immediately notify the Authority of any irregularity, breach of the deed, the rules or securities laws, and any other matter properly regarded by the trustee as not being in the interests of unit holders;
- (j) It should at all times, through proper and adequate supervision, ensure that the fund is managed and administered by the management company in accordance with the objectives of the fund, deed, rules, and relevant laws and requirements, and acceptable and efficacious business practices within the real estate investment trust industry;
- (k) It should take all reasonable steps to ensure that the fund's assets are correctly valued and is valued in accordance with the deed, relevant rules, securities laws or valuation standards; and
- (l) It should ensure that sale, repurchase, creation, and cancellation of units of the fund is in accordance with the deed, the rules and securities laws.

## **1.3 Joint Covenants of the Management Company and Trustee**

A deed of a real estate investment trust should contain covenants of the management company and trustee including, but not be limited to, the following:

- (a) The management company and the trustee should safeguard the interests of unit holders;

- (b) The management company and the trustee should ensure that for the duration of the fund, there is a registered deed in force at all times;
- (c) The management company or the trustee may not exercise the voting rights at any election for the appointment of a director of a corporation whose shares are so held, unless it is sanctioned by the unit holders of the fund by way of an ordinary resolution;
- (d) The management company and the trustee should at all times use its best endeavours to list and maintain the listing of the fund on the Dar es Salaam Stock Exchange (DSE) and to comply with the listing requirements; and
- (e) The management company, the trustee and any delegate should avoid a conflict of interest and ensure that the fund is not disadvantaged by the transaction concerned.

### **Other Provisions**

A deed of a real estate investment trust should also contain provisions for the following:

- (a) Creation of the fund or declaration of trust, which also sets out full particulars of the trust, including precise information as to the circumstances in which the money, securities, investments, and properties subject to the fund are or will be vested in that trustee, and the duties and obligations of the trustee towards;
- (b) That the deed–
  - (i) is binding on each unit holder as if it had been a party to it and that it is bound by its provisions;
  - (ii) authorizes and requires the management company and the trustee to do the things required or permitted of them by the terms of the deed; and
  - (iii) is made and governed under the laws of United Republic of Tanzania;
- (c) Appointment of a trustee to the fund;
- (d) Full particulars of the fund including, but not limited to–
  - i. name of the fund;
  - ii. investment objective of the fund;
  - iii. permitted investments, limits, and restrictions;
  - iv. basis for the valuation of the assets of the fund;
  - v. if the fund has a limited duration, a statement to that effect;
  - vi. the fund's distribution policy;
  - vii. accounting period of the fund; and
  - viii. if classes of units are issued, a provision specifying the classes, differences between the classes and rights attached to each class;
- (e) Full particulars on circumstances in which, and methods by which, all or any of the investments may be varied;
- (f) Full particulars on the provision to be made for investments in property that depreciates in value, including the source from which the replacement is to be made or from which the cost of replacement is to be met. If no provision is made, a statement to that fact must be clearly stated;

- (g) For unlisted funds, full particulars on the circumstances in which the management company may be required to repurchase any unit which the unit holder has purchased, and the method of calculation of the repurchase price of the unit;
- (h) For unlisted funds, full particulars on its pricing policy, including the method of calculation of the unit price;
- (i) Full particulars on the conditions governing the transfer of any unit;
- (j) Full particulars on the remuneration of the management company and trustee respectively, including dealing charges (if any) and expenses that are allowed to be paid out of the fund;
- (k) Where the deed requires, or confers a right on, unit holders to enter into an agreement in connection with the fund, a provision incorporating the terms and conditions of that agreement;
- (l) A declaration that unless the conditions of issue of any unit expressly provide that a certificate not be issued, a certificate should be issued by the trustee to a purchaser of any unit purchased or subscribed for, not more than two months after the issue of the unit;
- (m) Circumstances under which the dealing in units can be deferred or suspended;
- (n) Circumstances, procedures and processes for termination or winding up of the fund;
- (o) Circumstances, procedures and processes for convening of meetings of unit holders, including the manner in which votes may be given at a meeting of unit holders;
- (p) Circumstances, procedures and processes for retirement, removal and replacement of the management company and the trustee;
- (q) Circumstances, procedures and processes for the appointment, retirement, removal, and replacement of the auditor for the fund;
- (r) Specific provisions whereby the management company undertakes to keep and maintain an up-to-date register of unit holders and to make that register available for inspection, free of charge, to any unit holder at any time during ordinary business hours of the management company;
- (s) The extent of the indemnity provided by the management company;
- (t) Full particulars relating to unit holders' rights and the extent of their liability; and
- (u) Provisions governing the modification of the deed.

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**FOURTH SCHEDULE**

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(Made under 115 (7))

**REQUIREMENTS FOR APPLICATIONS**

## General

- (1) Applications may only be submitted to the Authority by the following:
  - (a) Adviser, for–
    - i. proposals involving the establishment, listing, and quotation of a fund on the stock exchange; and
    - ii. any other proposals involving a listed fund.
  - (b) Adviser or a management company, for–
    - (i) proposals involving the establishment of an unlisted fund;
    - (ii) any other proposals involving an unlisted fund; and
    - (iii) proposals involving a management company of a fund.
  - (c) A trustee, for–
    - (i) proposals involving appointment to act as a trustee of a fund;  
and
    - (ii) proposals to register or renew registration of a trustee.
- (2) Applications should be submitted in accordance with the requirements set out under this schedule, unless otherwise specified. Submission of applications which do not comply with the requirements or which are unsatisfactory will be returned.
- (3) The submitting party has a duty of care to ensure that all Authority's requirements pertaining to submission of applications/proposals are met and is responsible for dealing with the Authority on all matters in connection with the applications.
- (4) The applicant (including directors and/or promoters), advisers, experts and any other person accepting responsibility for all or part of the information and documents submitted to the Authority should exercise due diligence for all or any part of the information submitted relating to, or in connection with the proposal. The parties to the submission of a proposal should comply with the relevant rules issued by the Authority in this regard.
- (5) The information provided in the submission should be correct as at the latest practicable date.
- (6) The Authority may, at its discretion, request for additional information and documents not specified in this schedule.
- (7) The Authority should be immediately informed of–
  - a) any material change in circumstances that would affect the Authority's consideration of the proposal; and/or
  - b) any material change/development in circumstances relating to the proposal, occurring subsequent to the Authority's approval.
- (8) If certain circumstances are made known to the Authority after the proposal has been considered, and the circumstances would have affected the decision made had the Authority known about them, the Authority may review its decision.
- (9) Any person who is aggrieved by the Authority's decision may, within 30 days after the aggrieved person is notified of the decision, make an application to the Authority for a review of its decision, which will then be final.

(10) An application for a review of the terms and conditions of the Authority approval is not subject to any time limit. The principles adopted by the Authority for such applications are as follows:

Such applications should be supported by evidence of justifiable grounds or developments beyond the control of the relevant parties; and

Such applications which do not comply with (a) above may be considered by the Authority at its discretion based on exceptional reasons.

### **Application for the Establishment of a Real Estate Investment Trust**

(11) Submission to the Authority for the establishment of a fund proposed to be listed on a stock exchange should comprise the following:

- (a) Application to issue new units of the fund, and subsequent listing of and quotation for the units on stock exchange (where applicable);
- (b) Application for a company to act as management company for the fund;
- (c) Application for a company to act as trustee for the fund;
- (d) Application for valuation of real estates (including real estates held by single-purpose companies) to be acquired; and
- (e) Any other relevant application.

(12) Submission to the Authority for the establishment of an unlisted fund should comprise the following:

- (a) Application to issue new units of the fund;
- (b) Application for a company to act as management company for the fund;
- (c) Application for a company to act as trustee for the fund;
- (d) Application for valuation of real estates (including real estates held by single-purpose companies) to be acquired;
- (e) Application to register the deed of the fund;
- (f) Application to register the prospectus of the fund; and
- (g) Any other relevant application.

### **Application for an Extension of Time**

(13) An application for an extension of time must be submitted to the Authority at least 30 days before the stipulated expiry date.

(14) Where an application is submitted less than 30 days before the expiry date, the authority will not be responsible for any delay in considering the application.

### **Fees**

(15) All applications should be accompanied with the appropriate fee (where applicable). An application is deemed incomplete if the appropriate fee is not submitted.

(16) The details of fees payable to the Authority for the various types of applications are set out in rule 117(8).

(17) Payment should be made in the form of a cheque made in favour of “Capital Markets and Securities Authority”.

#### **Fourth Schedule – Appendix 1 (a)**

### **SUBMISSION OF APPLICATIONS FOR APPROVAL/REGISTRATION**

#### **Applications for the Authority’s Approval**

1. An application submitted for Authority’s approval should comprise the following:

(a) Cover letter, specifying (where applicable)-

- i) the approval sought, including particulars of the proposal(s);
- ii) particulars of initial public offering (IPO) proposal;
- iii) particulars of other required approvals obtained/pending (if applicable)
- iv) details of any departure from these rules, together with relevant justifications and waiver/exemption sought for such departure. Where waiver/exemption has been obtained, to provide details of such waiver/exemption; and
- v) declaration of conflict of interest, if any, by advisers/experts of the application. If a conflict of interest exists, to provide full disclosure of the nature of conflict and steps to address the conflict.

#### **Guidance**

For an application to establish a new fund, one cover letter will be accepted for multiple proposals in a single application.

(b) Declaration letter from the applicant and the principal adviser (if applicable), as per specimen provided in Appendix II of this schedule;

#### **Guidance**



For multiple applications, a declaration must be submitted by the relevant applicant/adviser responsible for all or any part of the information submitted for the application seeking an approval.

- (c) Supporting documents required for each type of application as follows  
(application forms are available on the Authority's website at  
[www.cmsa-tz.org](http://www.cmsa-tz.org))

***Application to Establish a New Real Estate Investment Trust***

	<b>Form</b>	<b>Title/Remarks</b>
i.	CMSA/REIT/NEW	Application for the establishment of a new real estate investment trust.
ii.	CMSA/REIT-REAL ESTATE	Information on real estates to be acquired by the fund.
iii.		<p>For the proposed establishment of a new fund-</p> <p>(a) Profit forecast for the first financial year;</p> <p>(b) Profit forecast for the second financial year if the first financial year is less than nine months; and</p> <p>(c) Commentary on the fund's future performance.</p> <p><i>The above information should be tabulated on a consolidated basis, before and after proposal.</i></p>
iv.		Proforma balance sheets after incorporating the effects of the proposal.
v.		<p>Letters from the reporting accountants on-</p> <p>(a) profit forecast; and</p> <p>(b) proforma balance sheets.</p>
vi.		<p>In the case of an acquisition where the real estates are not transferable at the point of acquisition (i.e. due to charges imposed by financial institution for loan facilities):</p> <p>a) A declaration from the advisers/directors stating the following:</p> <ul style="list-style-type: none"> <li>• The encumbered real estate is transferable (i.e. all relevant approvals will be obtained); and</li> <li>• Trustee, on behalf of unit holders, will enter a private caveat to protect its interest in the real estate and to</li> </ul>

		<p>prevent other encumbrances being entered by any other party.</p> <p>b) An undertaking/confirmation from the existing financial institution that it will withdraw the charge made on the real estate upon full settlement of the loan facilities.</p>
vii.		Draft deed.
viii.		Draft prospectus.
ix.		Any other document to support the application.

### Note

Items (vii) and (viii) are not required for an application to establish an unlisted fund. For a proposal to establish an unlisted fund, an application to register a deed and a prospectus should be submitted instead.

### *Application for a Listing and Quotation of an Existing Unlisted Real Estate Investment Trust on Stock Exchange*

	<b>Form</b>	<b>Title/Remarks</b>
i.	CMSA/REIT-EXISTING FUND	Application for the listing of and quotation for units of an existing fund on a stock exchange.
ii.	CMSA/REIT-REAL ESTATE	Information on real estates to be acquired/owned by the fund.
iii.		<ul style="list-style-type: none"> <li>An accountant's report containing- <ul style="list-style-type: none"> <li>historical track record of the fund for the last five financial years (or since inception) including, but not limited to, the fund's revenue, operating cost, profit before tax, tax expense, profit after tax, NAV, gross dividend rate, distribution yield, total borrowings, gearing ratio; and</li> <li>commentary on the fund's past performance.</li> </ul> </li> <li>Audited financial statements for the last five years (or since inception); and</li> <li>Latest management accounts.</li> </ul>
iv.		<ul style="list-style-type: none"> <li>Profit forecast for the current financial year;</li> <li>Profit forecast for the next financial year, if the fund's prospectus is to be issued in the last three months of the current financial year; and</li> <li>Commentary on the fund's future performance.</li> </ul> <p><i>The above information should be tabulated on a consolidated basis, before and after proposal.</i></p>
v.		Proforma balance sheets after incorporating the effects of the proposal.

vi.		Letters from the reporting accountants on-  a) profit forecast; and b) proforma balance sheets.
vii.		In the case of an acquisition where the real estates are not transferable at the point of acquisition (i.e. due to charges imposed by financial institution for loan facilities)  a) A declaration from the advisers/directors stating the following: <ul style="list-style-type: none"> <li>• The encumbered real estate is transferable (i.e. all relevant approvals will be obtained); and</li> <li>• Trustee, on behalf of unit holders, will enter a private caveat to protect its interest in the real estate and to prevent other encumbrances being entered by any other party,</li> </ul> b) An undertaking/confirmation from the existing financial institution that it will withdraw the charge made on the real estate upon full settlement of the loan facilities.
viii.		Draft deed.
ix.		Draft prospectus.
x.		Any other document to support the application.

***Application to Act as Management Company of a New Real Estate Investment Trust***

	<b>Form</b>	<b>Title/Remarks</b>
i.	CMSA/MC	Application for the appointment of a company to act as a management company to a real estate investment trust.
ii.		Statutory declaration from the applicant stating that it is independent of the trustee.  Note: This does not apply if the applicant is related to the trustee.
iii.		Declaration letter from the directors of the applicant, as per specimen provided in Appendix II (c) of this schedule.
iv.		Details on the property manager, including corporate information and tract record.

***Application to Act as Trustee of a New Real Estate Investment Trust***

	<b>Form</b>	<b>Title/Remarks</b>
i.	CMSA/TRUSTEE	Application for the appointment of a company to act as a trustee to a real estate investment trust.
ii.		Statutory declaration from the applicant stating that it is

		<p>independent of the management company.</p> <p>Note: This does not apply if the applicant is related to the trustee.</p>
--	--	--

***Application for Issuance of New Units/Increase in Approved Fund Size by an Existing Fund***

	<b>Form</b>	<b>Title/Remarks</b>
i.	CMSA/REIT-INCREASE	Application for issuance of new units/increase in approved fund size.
ii.	CMSA/REIT-REAL ESTATE	Information on real estate to be acquired by the fund (if applicable).
iii.		<p>Where the issuance of new units is to finance an acquisition where the real estates are not transferable at the point of acquisition (i.e. due to charges imposed by financial institution for loan facilities).</p> <p>(a) A declaration from the advisers/directors stating the following:</p> <ul style="list-style-type: none"> <li>• The encumbered real estate is transferable (i.e. all relevant approvals will be obtained: and</li> <li>• Trustee, on behalf of unit holders, will enter a private caveat to protect its interest in the real estate and to prevent other encumbrances being entered by any other party.</li> </ul> <p>(b) An undertaking/confirmation from the existing financial institution that it will withdraw the charge mad on the real estate upon full settlement of the loan facilities.</p>

***Application for Valuation of Real Estates (including Real Estates Held by Single-purpose Companies)***

	<b>Form</b>	<b>Title/Remarks</b>
i.	CMSA/REIT-REAL ESTATE	Information on real estates the subject of valuation.
ii.		An undertaking/confirmation from the adviser/applicant that the valuer fulfills the requirements set out in the .....
iii.		Disclosure of breaches of building by laws or approved land use.
iv.		For related party transactions, details of the nature of interest of the related parties including direct and indirect shareholdings of

		the related parties in the management company.
v.		Valuation report (2 copies).
vi.		Valuation report checklist prepared in accordance with the ..... (2 copies).
vii.		Valuation certificates prepared in accordance with the ..... (2 copies).
viii.		<p>Copies of-</p> <p>(a) sale and purchase agreements (where such agreements are not included in the valuation reports); and</p> <p>(b) (where applicable) sale and leaseback agreements.</p> <p>Note: Where the sales and purchase agreement or sale and leaseback agreement has not been signed, a copy of the draft agreement is to be submitted.</p>
ix.		Tentative date for the submission of application for the proposals to the Authority.
x.		Detailed summary of proposals.
xi.		Where application, if any.

***Application to Appoint a Delegate Not Licensed by the Authority***

	<b>Form</b>	<b>Title/Remarks</b>
i.	CMSA/MC-DELEGATE	Application for the appointment of a delegate not licensed by the Authority.
ii.		An undertaking that the applicant will take responsibility for the actions and omissions of the delegate as though they were its own actions and omissions.
iii.		<p>A declaration by the applicant that it-</p> <ul style="list-style-type: none"> <li>• has adequate procedures to monitor the conduct of the delegate to ensure that the delegated function is performed in a proper and efficient manner.</li> <li>• has conducted a review of the operations of the delegate, and is satisfied that the delegate has the capabilities and capacity, and is suitable to undertake the delegated function; and</li> <li>• is satisfied that the delegate will be able to fulfill its duties and responsibilities of the delegated function in a proper and efficient manner.</li> </ul>

**Application to Register and Lodge Documents with the Authority**

***Deed***

2. An application to register and lodge a fund's deed must be made in accordance with the requirements set out in Appendix III of this schedule.

***Prospectus***

3. An application to register and lodge a fund's prospectus must be made in accordance with the requirements set out in the CMS (Collective Investment Schemes) Regulations.

#### **Fourth Schedule - Appendix I (b)**

### **NOTIFICATION AND SUBMISSION OF DOCUMENTS**

#### **Notification to Authority**

- (1) A notification to the Authority should comprise the following:
  - (i) Notification letter (with details of notification); and
  - (ii) Notification forms (where applicable).
- (2) The notification forms are available on the Authority's website at [cmsa-tz.org](http://cmsa-tz.org).

#### **Filing of Documents with the Authority**

- (3) Under regulation 41 of the CMS (Collective Investment Schemes) Regulations all financial reports produced by or for a Collective Investment Scheme, its manager and trustee shall be filed with the Authority.
- (4) The submission should comprise a cover letter specifying the documents filed, three printed copies of the annual report, minimum content checklist<sup>1</sup> and a CD-ROM containing the annual report in "pdf" format.

**DECLARATION BY THE APPLICANT**

Chief Executive Officer  
Capital Markets and Securities Authority

Dear Sir

**FUND** (*name of fund*)

**APPLICANT** (*name of management company/trustee*)

**Declaration**

We, ..... (*name of applicant*)....., are proposing to undertake the following proposals:

- a. ....
- b. ....
- c. ....

(hereafter referred to as “the Proposal”).

2. We confirm that after having made all reasonable inquiries, and to the best of our knowledge and belief, there is no false or misleading statement contained in, or material omission from, the information that is provided to the advisers or to the Authority on the Proposal.

3. We declare that we are satisfied, after having made all reasonable inquiries, that the Proposal is in full compliance with the following:

- (i) The *Rules on Real Estate Investment Trusts*;<sup>\*</sup> and
- (ii) Other requirements under the *CMS (Collective Investment Schemes) Regulations 1997*, as may be applicable.

4. We declare that we will ensure continuous compliance with the requirements and conditions imposed by the Authority on the Proposal.

5. We undertake to provide to the Authority all information as required on the Proposal.

This declaration has been signed by me as ..... (*designation of director*) ..... of ..... (*name of the applicant*)..... pursuant to the authority granted to me by a resolution of the Board of Directors on ....(*date of resolution*)....

Yours faithfully

.....(*signature*).....

Name of signatory:

Name of Applicant:

Date:

Note: <sup>\*</sup> Where exemptions are being sought, to insert the words “except clause(s) .....(refer to clause where exemption is being sought).... .. where exemption(s) is/are being sought as part of the submission to the Authority.

**DECLARATION BY THE PRINCIPAL ADVISER**

Chief Executive Officer  
Capital Markets and Securities Authority

Dear Sir

**FUND** (*name of fund*)

**APPLICANT** (*name of management company/trustee*)

**Declaration**

....(*Name of applicant*).... is proposing to undertake the following proposals:

(a) .....

(b) .....

(c) .....

(hereafter referred to as “the Proposal”).

We, ....(*name of principal adviser*)....., are advising ....(*name of applicant*).... on the Proposal.

2. We confirm that after having made all reasonable inquiries, and to the best of our knowledge and belief, there is no false or misleading statement contained in, or material omission from, the information which is provided to the Authority on the Proposal.

3. We declare that we are satisfied, after having made all reasonable inquiries, that the Proposal is in full compliance with the following:

(i) The *Rules on Real Estate Investment Trusts*;<sup>\*</sup> and

(ii) Other requirements under the *CMS (Collective Investment Schemes) Regulations 1997*, as may be applicable.

4. We undertake to immediately inform the Authority if we come to know that .....(*name of applicant*)..... has breached or failed to comply with such requirements, after submission of this declaration on the Proposal until the implementation of the Proposal.

5. We undertake to provide to the Authority all information as required on the Proposal.

Yours faithfully

.....(*signature*).....

Name of signatory:

Name of Principal Adviser:

Date:

Note: \* Where exemptions are being sought, to insert the words “except clause(s) .....(refer to clause where exemption is being sought).... ..where exemption(s) is/are being sought as part of the submission to the Authority.



**DECLARATION BY A DIRECTOR OF THE APPLICANT**

Chief Executive Officer  
Capital Markets and Securities Authority

Dear Sir

**APPLICANT** (*name of management company/trustee*)  
**Declaration**

..... (*Name of applicant*).... is proposing to undertake the following proposals:

- a. ....
- b. ....
- c. ....

(hereafter referred to as “the Proposal”).

2. I declare that, save as otherwise disclosed in the attachment accompanying this declaration-

- a) I am not an undischarged bankrupt nor am I presently subjected to any proceeding under the bankruptcy laws;
- b) I have never been charged with, convicted for or compounded for any offence under the securities laws, corporation laws or any other law involving fraud or dishonesty in a court of law;
- c) no action has ever been taken against me for any breach of the listing requirements or rules issued by the stock exchange for the past five years prior to the submission of the Proposal to the Authority\*;
- d) to the best of my knowledge, I have not been subjected to any inquiry of investigation by any government or regulatory authority or body for the past five years prior to the submission of the Proposal to the Authority.

3. I make this declaration as part of the application by .....(*name of applicant*).....to the Authority for approval to implement or carry out the Proposal.

Yours faithfully

.....(*signature*).....

Name of director:

NRIC No:

Name of Applicant:

Date:

\* To delete if not applicable

**REGISTRATION AND LODGEMENT OF A DEED**

***General***

1. A deed of a real estate investment trust must be submitted for registration and lodgement according to the requirements under this appendix.
2. The Authority will not register a deed unless the submission is complete and accompanied by all required materials/documents. The Authority reserves the right to refuse registration and return the application if the contents of the deed are inadequate and unsuitable, or if the submission is incomplete, as the case may be.
3. A fund's deed should not have effect unless it is registered with the Authority.
4. An application to register a deed of a real estate investment trust proposed to be established should be submitted—
  - a) (for a listed fund) upon receipt of a “no comments letter” from the Authority on the draft deed; and
  - b) (for an unlisted fund) concurrently with the application seeking approval from the Authority to establish a new fund.
5. An application to register a supplementary deed should be submitted immediately upon the execution of the deed.
6. A fund's deed should be lodged with the Authority within seven days after the deed has been registered by the Authority.

**Submission of Application**

***Registration of Deed***

7. An application to register a deed should comprise the following:
  - a) Cover letter, signed by at least one of the directors of the management company (for unlisted funds) or head of corporate finance of the principal adviser (for listed funds), specifying the following:
    - i. Application to register a deed;
    - ii. A confirmation that the accompanying documents are complete, signed and dated; and

- iii. A declaration stating that the deed complies with the requirements of the CMS (Collective Investment Schemes) Regulations and the Minimum Contents Requirement for Deed stipulated under these rules.
- b) Executed and stamped copy of the deed (two copies);
- c) (For supplementary deed) A unit holders' resolution sanctioning the modification to the deed, or a statement from the trustee and the management company;
- d) (For supplementary deed) A list highlighting the original provisions from the principal deed and the amended provisions;
- e) Checklist for Minimum Contents for Deeds of Real Estate Investment Trusts;<sup>2</sup>
- f) Registration Checklist; and
- g) Registration fee and Fee Checklist

### **Lodgment of Deed**

8. An application to lodge a deed should comprise the following:
  - a) Cover letter, signed by at least one of the directors of the management company (for listed and unlisted funds) and head of corporate finance of the principal adviser (for listed funds), specifying the following:
    - i. Application to lodge the deed;
    - ii. A declaration that the copy of the deed lodged with the Authority is identical to the deed registered by the Authority; and
    - iii. A declaration that the copy of the deed in CD-ROM is identical to the printed deed.
  - b) Printed copies of the deed (two copies);
  - c) A CD-ROM containing the deed in "pdf" format. The CD-ROM should be labeled with a description of the content and the date of lodgment;
  - d) Lodgment Checklist; and
  - e) Lodgment fee and Fee Checklist

## ----- **FIFTH SCHEDULE** -----

(Made under Rule 117 (d))

### **STATISTICAL AND COMPLIANCE RETURN**

#### **General**

- 1) For the purpose of reporting to the Authority, a management company must submit a Statistical and Compliance Returns (collectively referred to as "REIT Returns") of the fund.
- 2) The REIT Returns should be submitted to the Authority on a quarterly basis.
- 3) The reporting period should cover the period starting from the first day until the last day of the respective quarter. For information required at a certain cut-off, it must be as at the last day of the quarter.
- 4) For a newly-established fund, the REIT Returns should commence from the quarter in which the fund is listed (for listed funds) or the quarter its initial offer period ends (for unlisted funds). For example, if an unlisted fund was launched on 28 May and the initial offer period ends on 18 June, the first REIT Returns should be

submitted for the first quarter ending September. In this instance, the REIT Returns should consist of data for more than one quarter, i.e. from 28 May to 30 September.

- 5) A management company must take all necessary precautions to ensure that the information provided in the REIT Returns is accurate.
- 6) The chief executive officer is ultimately responsible for all information submitted to the Authority. The chief executive officer is expected to ensure that the necessary policies and procedures are in place and the information submitted to the Authority is true and accurate.
- 7) For the Compliance Return, it should be submitted to the trustee for verification that it is complete, true and accurate to the best of the trustee's knowledge and belief prior to submitting it to the Authority.

#### **Submission of REIT Returns**

- 8) The REIT Returns should be submitted to the Authority within seven business days (by 5.00 pm on a weekday) of the quarter following the end of the period of reporting.
- 9) In submitting the REIT Returns, the management company is required to deliver to the Authority one set of the following:
  - a) Cover letter, specifying–
    - i) the documents delivered to the Authority; and
    - ii) details of the contact person with whom the Authority can contact to clarify any matters pertaining to the REIT Returns.
  - b) A declaration by the designated person responsible for all compliance matters that the REIT Returns are complete, true and accurate to the best of his/her knowledge and belief. The next officer-in-line in the compliance unit can make the declaration only in the absence of the designated person; and
  - c) The REIT Returns.
- 10) Should there be errors and/or omissions discovered after the submission has been made, the management company should immediately make the rectification and submit the amended REIT Returns to the Authority.

#### **Submission of REIT Returns During Termination/Winding Up**

- 11) While a fund is being terminated/wound up, a management company should continue to submit REIT Returns until the termination/winding up is complete.

#### **Submission of Compliance Review Report**

- 12) Where there are non-compliances detected in the Compliance Return, the management company must provide an explanation for the non compliances and action to be taken to rectify the matter in a Compliance Review Report.
- 13) The Compliance Review Report should be submitted to the Authority not later than seven business days from the date of submission of the REIT Returns.