

## TITLE 24

## Chapter 24:18

PREVIOUS CHAPTER**ZIMBABWE STOCK EXCHANGE ACT**

Acts 27/1973, 24/1975, 15/1981, 20/1984; R.G.Ns 54/1975; 1135/1975, S.Is 468/1979, 236/1980.

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FIRST SCHEDULE: Matters in Respect of Which Minister May Make Regulations.

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AN ACT to provide for the establishment and regulation of the Zimbabwe Stock Exchange and the Committee thereof; to provide for the appointment of a Registrar of the Stock Exchange and the establishment of a Register of Stockbrokers; to establish a procedure for the registration of stockbrokers; to provide for the cancellation of the registration of registered stockbrokers and for the disciplinary powers of the Committee; to establish a system of appeals from certain decisions of the Committee and the Registrar; to regulate the financial affairs of the Exchange and of registered stockbrokers; to provide for a method of transfer for certain securities and for a system of certification of instruments of transfer by issuers of certain securities, and to relieve issuers of certain securities of certain duties with regard to persons under contractual disability; to regulate certain stockbroking transactions; to confer upon the Minister responsible for finance power to set in train investigations into the affairs of the Exchange or a registered stockbroker and to suspend the operation of the Exchange; to restrict advertising and to prohibit certain acts in connection with the Exchange; to provide for the establishment and regulation of the Zimbabwe Stock Exchange Security Fund and of the Board of Trustees thereof; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 18th January, 1974.]

## PART I

### PRELIMINARY

#### 1 Short title

This Act may be cited as the Zimbabwe Stock Exchange Act [Chapter 24:18].

#### 2 Interpretation

In this Act—

“accepting house” means a person registered as an accepting house in terms of the Banking Act [Chapter 24:01];

“annual general meeting” means an annual general meeting convened in terms of subsection (1) of section nineteen;

“applicant” means a person making application for registration in terms of Part IV;

“appointed Committee member” means a Committee member appointed in terms of paragraph (a) of subsection (1) of—

(a) section five; or

(b) section twelve;

“associate member” means a member of the Exchange who, not being a registered stockbroker, acts as the agent of a registered stockbroker in the conduct of Exchange transactions;

“banking institution” means an accepting house, commercial bank, discount house or financial institution;

“Board” means the Board of Trustees of Zimbabwe Stock Exchange Security Fund established by subsection (2) of section seventy-six;

“brokerage” means the commission charged by a registered stockbroker in respect of

the purchase or sale of listed securities on behalf of a client;

“broker’s note” means a broker’s note referred to in section fifty-four;

“certificate of registration” means a certificate of registration issued in terms of paragraph (a) of subsection (3) of section twenty-three;

“chairman” means the Committee member elected in terms of subsection (1) or (2) of section six to be the chairman of the Exchange;

“client” means, save in section ninety-two, a person who instructs a registered stockbroker to purchase or sell listed securities;

“commercial bank” means a person registered as a commercial bank in terms of the Banking Act [Chapter 24:01];

“Committee” means the Committee of Zimbabwe Stock Exchange referred to in section four;

“Committee member” means an appointed Committee member or an elected Committee member;

“company” includes any body corporate;

“defaulter” means a registered stockbroker who makes default in one or more of his Exchange transactions;

“discount house” means a person registered as a discount house in terms of the Banking Act [Chapter 24:01];

“elected Committee member” means a Committee member—

- (a) elected in terms of paragraph (b) of subsection (1) of section five; or
- (b) co-opted in terms of—
  - (i) paragraph (b) of subsection (1); or
  - (ii) subsection (4);

of section twelve;

“Exchange” means the Zimbabwe Stock Exchange established by section three;

“Exchange auditor” means the auditor—

- (a) elected or appointed in terms of section forty-three;
- or

(b) appointed in terms of paragraph (a) of subsection (1) of section ninety-seven;

“Exchange estate”, in relation to a defaulter who has been suspended from practice or a person—

- (a) who was a registered stockbroker; and
- (b) whose registration has been cancelled or who has died;

means the assets and liabilities arising from the Exchange transactions of that defaulter or person and includes—

- (i) the proprietary rights of that defaulter or person; and
- (ii) differences paid to the Secretary in respect of the closing of Exchange transactions entered into by that defaulter or person;

“Exchange meeting” means an annual general meeting or a special meeting;

“Exchange transaction” means, save in Part IX, any transaction entered into between two or more registered stockbrokers in their capacity as such;

“financial institution” means a person registered as a financial institution in terms of the Banking Act [Chapter 24:01];

“financial year”, in relation to the Exchange, means a period fixed by the Committee as the financial year of the Exchange;

“former Exchange” means the Rhodesia Stock Exchange which existed immediately before the 18th January, 1974;

“Fund” means the Zimbabwe Stock Exchange Security Fund established by subsection (1) of section seventy-six;

“inspector” means an inspector appointed by the Minister in terms of subsection (1) of section sixty-four;

“insurer” means a person registered as an insurer in terms of the Insurance Act [Chapter 24:07];

“issuer” means, save in Part IX, any issuer of securities, including the State;

“listed security” means any security which is included in the official list;

“member of the Exchange” means a person who—

(a) is a registered stockbroker; or

(b) has been admitted by the Committee to membership of the Exchange as an associate member or non-broking member;

“Minister” means the Minister of Finance or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“non-broking member” means a member of the Exchange who is not—

(a) a registered stockbroker; and

(b) entitled to perform the work of a registered stock broker;

“non-member institution” means a company which—

(a) is not a member of the Exchange; and

(b) upon conditions approved by the Committee—

(i) carries on the business of purchasing and selling or purchasing or selling listed securities on behalf of other persons; or

(ii) regularly purchases and sells or purchases or sells listed securities on its own behalf;

through a registered stockbroker;

“official list” means the list of securities kept in terms of paragraph (a) of subsection (1) of section sixteen;

“partnership” means a partnership of registered stockbrokers;

“proprietary right” means a share in the assets of the Exchange—

(a) acquired by—

(i) an applicant for the purpose of registration; or

(ii) a person seeking admission as an associate member; or

(iii) a registered stockbroker;

and

(b) bearing—

(i) a nominal value specified in the rules; and

(ii) interest at a rate fixed by the Exchange in annual general meeting;

“Register” means the Register of Stockbrokers established in terms of subsection (1) of section twenty-three;

“Registrar” means the Registrar of the Stock Exchange appointed in terms of section twenty-two;

“regulations” means regulations made in terms of section ninety-three;

“Secretary” means the secretary appointed in terms of subsection (1) of section eighteen;

“security”—

(a) means any fully paid-up share, stock, debenture, debenture stock, loan stock, unit in a unit portfolio or other security, other than a bearer security or proprietary right; and

(b) includes any right of option to acquire a security referred to in paragraph (a), whether fully paid up or not;

“special meeting” means a special meeting of the Exchange convened in terms of subsection (3) of section nineteen;

“stockbroker” means a person who—

(a) carries on the business of purchasing and selling or purchasing or selling listed securities on behalf of other persons; or

(b) regularly purchases and sells or purchases or sells listed securities on his own behalf;

otherwise than through a registered stockbroker and includes a company registered in terms of section thirty-two;

“the rules” means the rules made by the Committee in terms of subsection (1) of section ninety-four;

“vice-chairman” means the Committee member elected in terms of subsection (1) or (2) of section six to be the vice-chairman of the Exchange.

## PART II

### ZIMBABWE STOCK EXCHANGE

#### 3 Establishment of Zimbabwe Stock Exchange

There is hereby established a stock exchange to be known as the Zimbabwe Stock Exchange, which shall be a body corporate and shall be capable of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

#### 4 Establishment of Committee of Zimbabwe Stock Exchange

The affairs of the Exchange shall, subject to this Act, be managed and controlled by a committee to be known as the Committee of the Zimbabwe Stock Exchange.

#### 5 Composition of Committee

(1) The Committee shall consist of—

(a) two members, neither of whom shall be the Registrar, appointed by the Minister; and

(b) not less than five members and not more than seven members, as the Committee may from time to time determine, being members of the Exchange—

(i) elected by members of the Exchange; and

(ii) not more than two of whom shall be members of any one partnership or company;

who shall hold office for a period of one year.

(2) The Minister may appoint any person, other than the Registrar, to the Committee as an alternate to an appointed Committee member and that person—

(a) shall act as a Committee member only when the appointed Committee member to whom he is alternate is unable to exercise his functions on the Committee by reason of illness, absence from Zimbabwe or other reasonable cause; and

(b) when acting as a Committee member, shall—

(i) exercise the functions and powers and perform the duties of the appointed Committee member to whom he is alternate; and

(ii) for the purposes of this Act, be deemed to have been duly appointed to the Committee in terms of paragraph (a) of subsection (1).

(3) A retiring Committee member shall be eligible for reappointment or re-election as a Committee member.

(4) The Secretary shall notify the Registrar in writing of any change in the membership of the Committee within a period of fourteen days from the date of that change.

#### 6 Chairman, vice-chairman and treasurer of Exchange

(1) The Committee members shall elect from among the elected Committee members a chairman, vice-chairman and treasurer of the Exchange at the first Committee meeting after an election referred to in paragraph (b) of subsection (1) of section five.

(2) If there is at any time a vacancy in the office of chairman, vice-chairman or treasurer of the Exchange, the Committee members may elect an elected Committee

member to fill that vacancy.

(3) The vice-chairman shall—

(a) assist the chairman in the exercise of the functions of the chairman;  
and

(b) exercise the functions referred to in paragraph (a) during any period when the chairman is unable to exercise his functions.

(4) If both the chairman and the vice-chairman are absent from a Committee meeting, the Committee members may elect an elected Committee member to preside as chairman at the Committee meeting.

7 Remuneration and allowances of Committee members

A Committee member shall be paid out of the funds of the Exchange such remuneration and allowances, if any, as the Committee may from time to time fix.

8 Disqualifications for appointment or election as Committee member

No person shall be appointed or elected as a Committee member and no person shall be qualified to hold office as a Committee member who has—

(a) in terms of a law in force in any country—

(i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or

(ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside;

or

(b) within the period of five years immediately preceding the date of his proposed appointment or election, been convicted—

(i) within Zimbabwe of a criminal offence; or

(ii) outside Zimbabwe of an offence by whatever name called which, if committed within Zimbabwe, would have been a criminal offence;

and sentenced by a court to imprisonment for a term of six months or more without the option of a fine, whether or not that sentence has been suspended, and has not received a free pardon.

9 Vacation of office by Committee member

A Committee member shall vacate his office and his office shall become vacant—

(a) after a period of thirty days from the date upon which he—

(i) gives notice in writing to—

A. the chairman; or

B. in the case of a Committee member who is the chairman, the vice-chairman;

of his intention to resign his office or after the expiry of such shorter period as he and the chairman or vice-chairman, as the case may be, may agree; or

(ii) is sentenced by a court to imprisonment referred to in paragraph (b) of section eight after conviction of an offence referred to in that paragraph:

Provided that if, during that period of thirty days, an application for a free pardon is made or an appeal is filed, the question of whether or not the Committee member is to vacate his office shall not be determined until the final disposal of that application or appeal, whereupon that Committee member shall forthwith vacate his office and his office shall become vacant unless—

(a) he is granted a free pardon; or

(b) his conviction is set aside; or

(c) his sentence is reduced to a term of imprisonment of less than six months; or

(d) a punishment other than imprisonment is substituted;

or



(b) if he becomes disqualified in terms of paragraph (a) of section eight to hold office as a Committee member; or

(c) if he is required in terms of section eleven to vacate his office; or

(d) if he is absent without the permission of the Committee from three consecutive Committee meetings of which he has had notice to attend; or

(e) if he is expelled from membership of the Committee by a resolution of—

(i) the Committee passed by a majority of not less than two-thirds of the Committee members present and voting at a Committee meeting of which special notice has been given; or

(ii) the Exchange passed by a majority of not less than two-thirds of the members of the Exchange present and voting at a special meeting convened for the purpose;

or

(f) in the case of an elected Committee member—

(i) if he ceases to be a member of the Exchange; or

(ii) who is a registered stockbroker, if he is suspended from practice; or

(iii) if he ceases to be employed by a company which nominated him as its representative or is at any time withdrawn by such company even though he may still be in its employ.

10 Committee member to declare interest

If at any Committee meeting a Committee member is aware that any matter which affects—

(a) himself or his spouse or child; or

(b) any person who is a debtor, creditor, partner, employee or agent of his; or

(c) any person who is a debtor under a mortgage bond of any body corporate or unincorporate of which he is a director or officer or under which he holds any office or position other than that of auditor; or

(d) any company of which he is a director;

is to be discussed or is under discussion, that Committee member shall forthwith declare to the Committee meeting his interest in that matter and shall not vote on any question before the Committee which relates to that matter:

Provided that nothing in this section contained shall be taken to prevent Committee members from voting upon matters which affect them generally.

11 Minister may require Committee member to vacate office or suspend Committee member

(1) The Minister may, after consultation with the Committee, require a Committee member to vacate his office if the Minister is satisfied that the Committee member—

(a) has been guilty of improper conduct as a Committee member; or

(b) is mentally or physically incapable of performing his duties efficiently.

(2) The Minister may suspend from office a Committee member against whom criminal proceedings are instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed and whilst that Committee member is so suspended he shall not carry out any duties or be entitled to any remuneration or allowances as a Committee member.

12 Filling of vacancies on Committee

(1) On the death of, or the vacation of office by—

(a) an appointed Committee member, the Minister shall appoint a person;

or

(b) an elected Committee member, the Committee shall co-opt a member of the Exchange:

Provided that no registered stockbroker shall be co-opted if he is a member of a partnership of which two serving elected Committee members are members;

to fill the vacancy until the expiry of the period during which the Committee member concerned would, but for his death or the vacation of his office, have continued in office.

(2) If—

(a) the members of the Exchange for any reason fail, neglect or refuse to elect any of the Committee members referred to in paragraph (b) of subsection (1) of section five; or

(b) the Committee for any reason fails, neglects or refuses to co-opt a member of the Exchange in terms of paragraph (b) of subsection (1); the Minister may appoint a person or persons, as the case may be, to fill the vacancy or vacancies left unfilled by reason of that failure, neglect or refusal.

(3) A Committee member appointed by the Minister in terms of subsection (2) shall, for the purposes of this Act, be deemed to have been—

(a) elected to the Committee in terms of paragraph (b) of subsection (1) of section five; or

(b) co-opted in terms of paragraph (b) of subsection (1); as the case may be.

(4) If an elected Committee member is granted leave of absence by the Committee, the Committee may co-opt a member of the Exchange to fill the vacancy during the absence of the elected Committee member.

### 13 Voting at Committee meetings

At a Committee meeting each Committee member present shall have one vote on a question before the Committee and, in the event of an equality of votes, the person presiding at the Committee meeting shall have, in addition to a deliberative vote, a casting vote.

### 14 Validity of decisions and acts of Committee

No decision or act of the Committee or act done under the authority of the Committee shall be invalid by reason only of the fact that—

(a) the Committee did not consist of the full number of Committee members for which provision is made in subsection (1) of section five; or

(b) a disqualified person acted as a Committee member at the time that the decision was taken, or the act was done or authorized, by a majority vote of the persons who at the time were entitled to act as Committee members.

### 15 General functions of Committee

(1) It shall be the function of the Committee—

(a) to manage and control the affairs of the Exchange; and

(b) to regulate the transaction of business on the Exchange; and

(c) to manage and invest the funds of the Exchange; and

(d) to raise or borrow moneys for the purposes of the Exchange in sums not exceeding in aggregate twenty-five thousand dollars in any financial year, unless otherwise authorized at an Exchange meeting; and

(e) if it appears desirable to the Committee to do so and after consultation with the Registrar, to suspend the operation of the Exchange; and

(f) to do all things required to be done by the Committee in terms of this Act and such other things as may be done by the Committee in terms of this Act as, in the opinion of the Committee, are necessary for ensuring—

- (i) fair and efficient dealing in listed securities; and
- (ii) that the competence and conduct of registered stockbrokers are of a standard sufficiently high for the protection of the public.

(2) The expenses incurred by the Committee in the exercise of its functions in terms of this Act shall be met out of the funds of the Exchange.

#### 16 Functions of Committee in relation to official list

(1) The Committee shall—

(a) keep a list of the securities, other than the securities referred to in the proviso to paragraph (b), which may be dealt in on the Exchange; and

(b) ensure that securities—

(i) which are not included in the official list; or

(ii) in which dealings have been suspended in terms of subparagraph (ii) of paragraph (e);

are not dealt in on the Exchange:

Provided that the Committee may, with the consent of the Registrar, permit securities quoted by any stock exchange outside Zimbabwe to be dealt in on the Exchange;

(c) grant, subject to such conditions, if any, as the Committee may think fit, defer or refuse applications from issuers for securities, including—

(i) shares which may not be acquired or disposed of without the consent or approval of the directors or any other representatives of a banking institution; and

(ii) any rights or options to shares referred to in subparagraph (1);

issued by them to be included in the official list:

Provided that the Committee shall not, in granting such an application, impose any condition requiring the disclosure by the issuer concerned of any information or documents otherwise than in accordance with the provisions of subsection (2); and

(d) review the official list not less than once in every financial year and transmit to the Registrar, within a period of fourteen days from the date of completion of that review, a certificate under the hand of the chairman that that review has been made; and

(e) if it appears desirable to the Committee to do so—

(i) remove any securities from the official list; or

(ii) suspend dealings in any listed securities; or

(iii) remove the prices of any listed securities from any list published by or on behalf of the Exchange;

and

(f) publish in such manner and at such intervals such information concerning the number of listed securities dealt in on the Exchange over such period or on such date as the Registrar may determine; and

(g) notify every registered stockbroker of any—

(i) change in the official list; and

(ii) conditions attached to a grant, or of any deferment or refusal, referred to in paragraph (c); and

(iii) suspension referred to in subparagraph (ii) of paragraph (e);

forthwith upon that change, attachment of conditions, deferment, refusal or suspension, as the case may be.

(2) Where the Committee wishes an issuer of—

(a) securities in respect of which an application referred to in paragraph (c) of subsection (1) has been made; or

(b) listed securities;

to disclose any information or documents to the Committee and additionally, or alternatively, to any other person, the Committee shall, subject to the provisions of any other law, by notice in writing require that issuer to disclose within a period specified in that notice, to the Committee and additionally, or alternatively, to any other person specified in that notice, such information or documents as the Committee may consider necessary in the interests of the Exchange or of the public generally or any section thereof, other than information or documents certified in writing by the Minister to be information or documents which it would not be in the public interest publicly to disclose.

#### 17 Transaction of urgent business

If it is not practicable to hold a Committee meeting for the transaction of business of an urgent nature, the chairman may, after consulting such of the other Committee members as are available in the circumstances, deal with the business himself and, as soon as may be thereafter, give to the Committee full particulars of the nature and extent of the urgency of the business, the circumstances in which that urgency arose and the action taken by him in the matter.

#### 18 Appointment of staff of Exchange

(1) The Committee shall appoint a secretary and such other employees of the Exchange as the Committee may consider necessary or desirable.

(2) The Secretary and any other employees appointed in terms of subsection (1) shall—

(a) hold office on such terms and conditions as may be fixed by the Committee; and

(b) carry out such functions as may be assigned to them by or under this Act or by the Committee.

#### 19 Exchange meetings

(1) The Committee shall, after the end of each financial year of the Exchange, issue a notice in writing convening an annual general meeting of all members of the Exchange and appointed Committee members at such place, date and time as may be specified in that notice:

Provided that the date so specified shall not be more than six months after the end of the financial year concerned.

(2) The notice referred to in subsection (1) shall—

(a) be sent by the Secretary to every member of the Exchange, each appointed Committee member, the Registrar and the Exchange auditor not less than twenty-one days before the date of the annual general meeting concerned; and

(b) set out the agenda of the annual general meeting referred to in paragraph (a).

(3) The Committee may itself at any time and shall, at the request in writing of—

(a) not less than seven registered stockbrokers; or

(b) the Registrar;

issue a notice in writing convening a special meeting of all members of the Exchange and appointed Committee members at such place, date and time as may be specified in that notice:

Provided that the date specified in that notice shall be not less than twenty-one days after the issue of that notice.

(4) The notice referred to in subsection (3) shall—

(a) be sent by the Secretary to every member of the Exchange, each appointed Committee member, the Registrar and the Exchange auditor; and

(b) state the purpose for which the special meeting concerned is being convened.

(5) At each Exchange meeting the chairman or, in his absence, the vice-chairman or, in the absence of both the chairman and the vice-chairman, an elected Committee member elected by members of the Exchange for the purpose shall preside as chairman at the Exchange meeting.

(6) Each member of the Exchange present at an Exchange meeting shall, subject to the provisions of this Act, have one vote on a question before the Exchange and, in the event of an equality of votes, the chairman, vice-chairman or elected Committee member referred to in subsection (5) shall have, in addition to a deliberative vote, a casting vote:

Provided that a member of the Exchange who has failed to pay any moneys due by him to the Exchange or the Fund or who has been suspended from practice as a registered stockbroker shall not have a vote at an Exchange meeting during the continuance of that failure or suspension, as the case may be.

(7) Twenty-five per centum of the members of the Exchange entitled to vote at an Exchange meeting shall form a quorum thereat.

(8) The Secretary shall send to every member of the Exchange, each appointed Committee member, the Registrar and the Exchange auditor a copy of the minutes of each Exchange meeting within a period of fourteen days after the conclusion of that Exchange meeting.

## 20 Subcommittees

(1) The Committee—

(a) may establish one or more subcommittees to assist the Committee in the exercise of its functions under this Act;

(b) shall appoint to any sub-committee—

(i) a chairman, who shall be a Committee member; and

(ii) such other members, who shall be members of the Exchange, as the Committee considers expedient.

(2) Subject to subsection (4), the Committee may assign to a subcommittee such of the functions of the Committee under this Act as the Committee considers expedient.

(3) The procedure to be followed by a subcommittee and the quorum at any meeting thereof shall be as determined by the Committee from time to time.

(4) The Committee shall not be treated as having divested itself of any function assigned to a subcommittee in terms of subsection (2) and the Committee may vary or revoke any decision of a subcommittee.

(5) The Committee may at any time revoke the establishment of a subcommittee.

(6) Section twenty-one shall apply, mutatis mutandis, in relation to members of a subcommittee as they apply in relation to Committee members and, where a function of the Committee under any provision of this Act has been assigned to a subcommittee, any reference in that provision to the Committee or a Committee member shall be construed as including a reference to the subcommittee or a member of the subcommittee, as the case may be.

## 21 Exemption of Committee members and others from liability

No liability shall attach to any Committee member or employee or agent of the Exchange for any loss or damage sustained by any person as a result of the bona fide exercise or performance by any Committee member or by any employee or agent of the Exchange of any power or duty conferred or imposed upon the Committee by this Act:

Provided that this section shall not be construed so as to prevent any person from recovering, by action in any competent court, compensation for any loss or damage sustained by him which was caused by negligence or breach of contract.

## PART III

## REGISTRAR OF STOCK EXCHANGE AND REGISTER OF STOCKBROKERS

### 22 Appointment of Registrar of Stock Exchange

The Minister shall, subject to the law relating to the Public Service, appoint an officer to be known as the Registrar of the Stock Exchange.

### 23 Duties of Registrar

(1) The Registrar shall establish a Register of Stockbrokers.

(2) It shall be the duty of the Registrar to—

(a) enter in the Register the name, address and such other particulars as may be prescribed of each person registered by him in terms of paragraph (a) of subsection (4) of section thirty; and

(b) make in the Register any necessary alterations in the name, address or prescribed particulars of a registered stockbroker; and

(c) delete from the Register the name of a registered stockbroker who dies; and

(d) when required to do so by or under this Act or in pursuance of an order made by the Minister in terms of subsection (2) of section forty or of action taken by the Committee in terms of subparagraph (1) of subsection (1) of section thirty-six—

(i) mark in the Register the registration of an applicant or, as the case may be, the suspension from practice of a registered stockbroker; or

(ii) cancel in the Register the registration of a registered stockbroker; and

(e) publish in the Gazette—

(i) once in every calendar year a list of registered stockbrokers; and

(ii) notification of the registration, cancellation of registration or suspension from practice of a registered stockbroker; and

(f) permit a person on payment to the Registrar of the appropriate prescribed fee—

(i) to inspect; or

(ii) to inspect and make a copy of; the whole or any portion of the Register; and

(g) hear appeals in terms of Part VI; and

(h) generally comply with—

(i) those provisions of this Act with which it is his duty to comply; and

(ii) any order made by the Minister in terms of subsection (2) of section

forty.

(3) If, in the performance of the duties imposed upon him by or under this Act, the Registrar—

(a) registers an applicant, he shall issue to the applicant a certificate of registration; or

(b) cancels the registration of a registered stockbroker or marks in the Register the suspension from practice of a registered stockbroker, he shall notify the registered stockbroker in writing accordingly.

### 24 Offences in connection with registration

Any person who—

(a) makes or causes to be made an unauthorized entry or alteration or deletion in the Register or a certified copy thereof or extract therefrom or on a certificate of registration; or

(b) procures or attempts to procure for himself or another person registration or a certificate of registration by means of fraud, a false representation or

the concealment of a material fact; or

(c) makes or causes to be made in connection with an application for registration a false declaration in a document used for the purpose of establishing his identity; or

(d) wilfully destroys or injures or renders illegible or causes to be destroyed, injured or rendered illegible an entry in the Register; or

(e) without the permission of the holder, wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible a certificate of registration; or

(f) forges or utters, knowing the same to be forged, a document purporting to be a certificate of registration;

shall be guilty of an offence.

25 Register as evidence

A certificate under the hand of the Registrar that—

(a) the name of a person has been entered in the Register shall be prima facie evidence that the person is a registered stockbroker;

(b) the name of a person has been deleted from or does not appear in the Register shall be prima facie evidence that the person is not a registered stockbroker;

(c) a registered stockbroker has been suspended from practice for a period specified in that certificate shall be prima facie evidence that the registered stockbroker has been suspended from practice for that period; on its mere production by any person.

26 Registrar may extend time limits

If the Exchange, the Committee, an issuer, an applicant a member of the Exchange or a client is required or entitled to comply within a specified period with any provision of this Act or any direction or requirement made thereunder, the Registrar may at its or his request, as the case may be, extend that period from time to time whether that request is made before or after the expiry of that period.

27 Powers of Registrar to require information and to call for and examine books, documents or other records

(1) The Registrar may at any time by notice in writing—

(a) require such information from the Exchange or a member of the Exchange as he may consider necessary for the proper performance of his duties;

(b) call for the production of, and examine or cause to be examined by a person authorized thereto by him in writing, any books, documents or other records—

(i) relating to the affairs of the Exchange or a member of the Exchange;

or

(ii) for the purpose of determining whether or not a person is—

A. practising as a stockbroker; or

B. carrying on the business of a stock exchange.

(2) Any person who refuses or fails, without lawful excuse, the proof whereof lies on him—

(a) to furnish the Registrar with any information required in terms of paragraph (a) of subsection (1); or

(b) to produce to the Registrar, or to permit the Registrar or a person authorized in terms of paragraph (b) of subsection (1) to examine, the records referred to in that paragraph;

within such period as may be specified in the notice referred to in subsection (1) shall be guilty of an offence.

28 Documents or copies thereof certified by Registrar

Every document purporting to be certified by the Registrar to be—

(a) a document deposited at the office of the Registrar under the provisions of this Act; or

(b) a true copy of a document referred to in paragraph (a); shall, in the absence of proof to the contrary, be deemed to be that document or to be a true copy of that document, as the case may be, and shall be received in evidence on its mere production by any person as if it were the original document, unless some variation between it and the original document is proved.

#### PART IV

#### REGISTRATION

##### 29 Application for registration

(1) An application for registration shall be—

(a) made in writing in the prescribed form to the Secretary; and

(b) proposed and seconded in writing by registered stockbrokers; and

(c) accompanied by such documents and information as may be prescribed.

(2) The Secretary may require a statement made in, or in connection with, an application for registration to be supported by a solemn declaration.

(3) The Secretary shall refuse to accept an application for registration if the Registrar has, within a period of twelve months preceding the date of that application, refused an application for registration by the applicant in terms of paragraph (b) of subsection (4) of section thirty-one.

(4) of section thirty-one.

##### 30 Application for registration to be referred to Committee

The Secretary shall, after having given thirty days' notice in the manner specified in the rules of his intention to do so, refer to the Committee—

(a) an application for registration and the documents and information accompanying that application; and

(b) any report which the Secretary may wish to make on the application for registration.

##### 31 Procedure to be followed in connection with application for registration

(1) If—

(a) an applicant—

(i) is a natural person who is ordinarily resident in Zimbabwe; and

(ii) has attained the age of twenty-one years; and

(iii) owns assets in Zimbabwe which exceed his liabilities by not less than ten thousand dollars and, where such applicant is a member of a partnership, the assets of the partnership in Zimbabwe exceed its liabilities by not less than ten thousand dollars multiplied by the number of partners; and

(iv) has complied with such requirements for registration as may be prescribed;

and

(b) the Committee is satisfied that the applicant is a suitable person for registration;

the Committee shall recommend in writing to the Registrar that the applicant be registered.

(2) If the Committee is not satisfied that an applicant—

(a) meets the requirements set out in paragraph (a) of subsection (1); or

(b) is a suitable person for registration;

the Committee shall forthwith notify the Registrar and the applicant in writing that it is unable, for the reasons set out in that notification, to recommend that the applicant be registered.

(3) The Committee shall state in a recommendation made in terms of subsection (1)



or a notification made in terms of subsection (2), as the case may be, whether or not the applicant has any interest, direct or indirect, in any banking institution, insurer, management company of mutual funds or trust company.

(4) Upon receipt of a recommendation made in terms of subsection (1) or a notification made in terms of subsection (2), as the case may be, the Registrar may—

(a) register the applicant:

Provided that the Registrar shall not register an applicant unless—

(a) the applicant has acquired not less than four or more than twelve proprietary rights; and

(b) in the case of an applicant who has an interest referred to in subsection (3), the Registrar is satisfied that that interest will not adversely affect the competence and conduct as a stockbroker of that applicant;

or

(b) subject to subsection (5), refuse the application for registration; or

(c) before acting in terms of paragraph (a) or (b)—

(i) call upon the applicant or the Committee or both the applicant and the Committee, as the case may be, to furnish him with such information as he may specify; and

(ii) afford both the applicant and the Committee an opportunity of commenting on any information obtained in terms of subparagraph (i).

(5) If the Registrar proposes to refuse the application for registration, he shall—

(a) notify the applicant in writing of that proposal and the reasons therefor; and

(b) afford the applicant an opportunity of showing cause to the contrary by means of representations in writing.

(6) Where the Registrar has registered an applicant in terms of paragraph (a) of subsection (4), the Registrar shall mark in the Register the registration of the applicant.

32 Procedure to be followed in connection with application for registration of company

(1) If—

(a) an applicant—

(i) is a company incorporated in terms of any enactment in Zimbabwe; and

(ii) owns assets in Zimbabwe which exceed its liabilities by not less than thirty thousand dollars; and

(iii) has as its sole object the business of stockbroking; and

(iv) has complied with such requirements for registration as may be prescribed; and

(b) the Committee is satisfied that the applicant is suitable for registration;

the Committee shall recommend in writing to the Registrar that the applicant be registered.

(2) For the purposes of subparagraph (iii) of paragraph (a) of subsection (1), any company applying for registration as a stockbroker shall submit a copy of its memorandum and articles of association to the Committee and the Registrar.

(3) If the Committee is not satisfied that an applicant—

(a) meets the requirements set out in paragraph (a) of subsection (1); or

(b) is suitable for registration;

the Committee shall forthwith notify the Registrar and the applicant in writing that it

is unable, for the reasons set out in that notification, to recommend that the applicant be registered.

(4) Subject to subsections (1) and (2), the provisions of subsections (3), (4) and (5) of section thirty-one shall apply, mutatis mutandis, to a company applying for registration in terms of this section.

### 33 Registered stockbroker to be member of Exchange

(1) Every registered stockbroker shall—

(a) be a member of the Exchange from the date of his registration; and

(b) cease to be a member of the Exchange upon his death, liquidation or the cancellation of his registration:

Provided that where his registration is cancelled and he is admitted by the Committee to membership of the Exchange as an associate member or a non-broking member within a period of fourteen days from the date of that cancellation, he shall be deemed not to have ceased to be a member of the Exchange by reason of that cancellation.

(2) A registered stockbroker who has been suspended from practice in terms of this Act shall not cease by reason only of that suspension to be a registered stockbroker and a member of the Exchange.

### 34 Offences by or in respect of registered stockbrokers

(1) Subject to this Act, no person shall, after the appointed date—

(a) practise as a stockbroker; or

(b) describe himself or hold himself out or allow himself to be described or held out as a stockbroker;

unless he is registered in terms of this Act.

(2) No registered stockbroker shall employ in any capacity whatsoever any person—

(a) who was a registered stockbroker and whose registration has been cancelled in terms of this Act; or

(b) who has been suspended from practice as a registered stockbroker in terms of this Act while that person is so suspended; or

(c) whose application for registration has been refused in terms of paragraph (b) of subsection (4) of section thirty-one; or

(d) whose application for admission to membership of the Exchange as an associate member or non-broking member has been refused by the Committee; without the consent in writing of the Committee, which consent may be given for such period and subject to such conditions as the Committee may think fit.

(3) No registered stockbroker shall—

(a) practise as a stockbroker while he is suspended from practice in terms of this Act; or

(b) enter into or remain in partnership with any person who is not a registered stockbroker.

(4) A person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and liable to a fine not exceeding six thousand dollars or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

(5) A conviction for a contravention of the provisions of subsection (1), (2) or (3) shall not be a bar to a further prosecution or prosecutions for the continuance of the offence.

(6) Nothing in this section shall be deemed to prohibit—

(a) a person who is—

(i) in the bona fide employment of a registered stock broker; or

(ii) an associate member;

from performing the work of a stockbroker under the direction and

control of a registered stockbroker; or

(b) a person who has been authorized thereto by the Committee, with the consent of the Registrar, from acting for a period not exceeding six months as the locum tenens of a registered stockbroker who is unable to carry on his practice through illness, absence from Zimbabwe or other reasonable cause; or

(c) a person employed by the State or a municipality, town or rural council or statutory body from carrying out his official duties; or

(d) a sheriff, additional sheriff, assistant sheriff, deputy sheriff or assistant deputy sheriff appointed in terms of section 56 of the High Court Act [Chapter 7:06] or a messenger or deputy messenger appointed in terms of section 10 of the Magistrates Court Act [Chapter 7:10] from carrying out his official duties; or

(e) a person, other than a registered stockbroker, from purchasing and selling listed securities—

(i) issued by the State or a municipality, town or statutory body; or

(ii) for the sole purpose of effecting—

A. the reconstruction of a company by the issue or sale of shares; or

B. the take-over by one company of another company; or

C. the merger of two or more companies; or

D. the take-over of a company in so far as the control of its management policy or business is concerned;

or

(f) a discount house from purchasing and selling listed securities which are debentures and bear a fixed rate of interest and a final redemption date; or

(g) an accepting house or non-member institution from purchasing and selling listed securities in accordance with conditions approved by the Registrar; or

(h) the transfer of listed securities between—

(i) a company and its subsidiaries; or

(ii) the subsidiaries of a company;

by a person other than a registered stockbroker.

(7) In paragraph (h) of subsection (6)—

“subsidiaries” has the meaning given by section 143 of the Companies Act [Chapter 24:03].

#### PART IV

### CANCELLATION OF REGISTRATION AND DISCIPLINARY POWERS OF COMMITTEE

#### 35 Cancellation of registration

(1) If the Committee considers that a registered stockbroker—

(a) is not a suitable person to remain registered; or

(b) has ceased to—

(i) own in Zimbabwe assets which exceed his liabilities as specified in subparagraph (iii) of paragraph (a) of subsection (1) of section thirty-one or subparagraph (ii) of paragraph (a) of subsection (1) of section thirty-two, as the case may be; or

(ii) comply with such requirements for registration as may be prescribed;

or

(c) has contravened any provision of this Act with which it is his duty to comply; or

(d) has been guilty of—

(i) disgraceful conduct; or

(ii) negligence in his capacity as a registered stockbroker;

or

- (e) has obtained his certificate of registration by fraud or mistake; or
- (f) has ceased to be ordinarily resident, or to practise as a registered stockbroker, in Zimbabwe; or
- (g) has become a defaulter; or
- (h) has failed to pay any moneys due by him to the Exchange or the Fund;

or

(i) who has proposed or seconded an applicant in terms of paragraph (b) of subsection (1) of section twenty-nine has wilfully or negligently made a material misstatement of fact to the Committee relating to the applicant; and that the registration of the registered stockbroker should be cancelled, the Committee shall forthwith—

(i) notify the Registrar and the registered stockbroker in writing of its opinion and the reasons therefor; and

(ii) suspend the registered stockbroker from practice until the Registrar has acted in terms of subsection (3).

(2) A registered stockbroker may request the Registrar in writing to cancel his registration.

(3) Upon receipt of a notification made in terms of subparagraph (i) of subsection (1) or a request made in terms of subsection (2), as the case may be, the Registrar may—

(a) cancel in the Register the registration of the registered stockbroker concerned:

Provided that—

(i) where the Registrar—

(a) has received notification in terms of subparagraph (i) of subsection (1); and

(b) proposes to cancel the registration of the registered stockbroker concerned;

he shall notify the registered stockbroker concerned in writing of the proposal referred to in paragraph (b) and the reasons therefor and afford that registered stockbroker an opportunity of showing cause to the contrary by means of representations in writing;

(ii) in the case of a request made in terms of subsection (2), the Registrar shall not cancel the registration of the registered stockbroker concerned unless—

(a) every registered stockbroker has received from the Secretary not less than thirty days' notice in writing of that request; and

(b) the Committee has agreed, unconditionally or on such conditions as the Committee may think fit, to that cancellation;

or

(b) decline to effect the cancellation referred to in paragraph (a).

### 36 Exercise of disciplinary powers of Committee

(1) If the Committee decides that a registered stockbroker—

(a) has ceased to—

(i) own in Zimbabwe assets which exceed his liabilities as specified in subparagraph (iii) of paragraph (a) of subsection (1) of section thirty-one or subparagraph (ii) of paragraph (a) of subsection (1) of section thirty-two, as the case may be; or

(ii) comply with such requirements for registration as may be prescribed;

or

(b) has contravened any provision of this Act with which it is his duty to comply; or

(c) has been guilty of—

(i) disgraceful conduct; or  
(ii) negligence in his capacity as a registered stockbroker;  
or  
(d) has ceased to be ordinarily resident, or to practise as a registered stockbroker, in Zimbabwe; or  
(e) has failed to pay any moneys due by him to the Exchange or the Fund;  
or  
(f) who has proposed or seconded an applicant in terms of paragraph (b) of subsection (1) of section twenty-nine has wilfully or negligently made a material misstatement of fact to the Committee relating to the applicant;  
but that the registration of the registered stockbroker should not be cancelled, the Committee—

(i) may—  
A. suspend the registered stockbroker from practice for such period as to the Committee may seem appropriate; or  
B. reprimand the registered stockbroker;  
(ii) shall, if it has suspended the registered stockbroker from practice in terms of subparagraph A of subparagraph (i), notify the Registrar forthwith in writing of that fact.

(2) Where a registered stockbroker has become a defaulter but the Committee does not consider that the registration of the registered stockbroker should be cancelled, the Committee shall suspend the registered stockbroker from practice—

- (a) forthwith upon that default; and  
(b) for such period as to the Committee may seem appropriate.

(3) If a registered stockbroker requests the Committee in writing to suspend him from practice for a period specified in that request, the Committee may suspend him from practice for that period or for such other period as to the Committee may seem appropriate.

(4) The Committee may, in relation to certain facts, exercise the powers conferred upon it by subsection (1), (2) or (3) notwithstanding that the Registrar may, in relation to the same facts, have declined to effect the cancellation of the registration of the registered stockbroker concerned in terms of paragraph (b) of subsection (3) of section thirty-five.

(5) If the Committee, having exercised the powers conferred upon it by subsection (1), (2) or (3) otherwise than in terms of subsection (4), considers, upon information which was not before the Committee at the time of the exercise of those powers, that the registration of the registered stockbroker concerned should be cancelled—

- (a) the Committee may act in terms of subsection (1); and  
(b) the Registrar may act in terms of subsection (3);

of section thirty-five in relation to that registered stockbroker.

37 Responsibility of registered stockbroker for acts or omissions of employees or associate members or other agents

Where an employee or associate member or other agent of a registered stockbroker (hereinafter called the responsible broker) does or omits to do anything which, if done or omitted to be done by a registered stockbroker, would have enabled the registered stockbroker to be dealt with in terms of section thirty-five or thirty-six, the responsible broker shall be deemed himself to have done or omitted to do that thing and shall be liable to be dealt with in terms of subsection (3) of section thirty-five or in terms of section thirty-six unless he proves to the satisfaction of the Registrar or the Committee, as the case may be, that—

- (a) in doing or omitting to do that thing the employee or associate

member or other agent was acting without his connivance or permission; and

(b) all reasonable steps were taken by him to prevent any act or omission of the kind in question; and

(c) it was not under any condition or in any circumstances within the course of employment, or within the scope of the authority, of the employee or associate member or other agent to do or omit to do things, whether lawful or unlawful, of the same character as that of the act or omission concerned.

38 Cancellation of registration by Registrar or exercise of disciplinary powers by Committee on conviction of registered stockbroker of offence, and forwarding of record by convicting court

(1) A registered stockbroker who has been convicted within or outside Zimbabwe of an offence by a court of law shall be liable to be dealt with in terms of subsection (3) of section thirty-five or in terms of section thirty-six if the Registrar or the Committee, as the case may be, is of the opinion that the offence constitutes disgraceful conduct.

(2) The Registrar or the Committee may, if he or it thinks fit on proof before the Registrar or the Committee, as the case may be, of a conviction referred to in subsection (1) and without hearing further evidence, deal with the registered stockbroker concerned in terms of subsection (3) of section thirty-five or in terms of section thirty-six:

Provided that that registered stockbroker shall be afforded an opportunity of tendering in writing or in person, as he may elect, an explanation to the Registrar or the Committee, as the case may be, in extenuation of his conduct.

(3) Subject to the Courts and Adjudicating Authorities (Publicity Restriction) Act [Chapter 7:04] whenever, after the termination of proceedings before a court of law in Zimbabwe, it appears to the court that there is prima facie evidence of disgraceful conduct on the part of a registered stockbroker, the court shall direct that a copy of the record of the proceedings or a copy of such portion of that record as is material to the issue shall be transmitted to the Committee.

## PART VI

### APPEALS

39 Lodging of notices of appeal

(1) A person, other than a member of the Exchange, who is aggrieved by any action, requirement or decision taken or made, as the case may be, by the Committee in terms of this Act, save for an action, requirement or decision relating solely to the regulation of Exchange transactions, may, within a period of thirty days from the date on which he is informed in writing of that action, requirement or decision, as the case may be, and of the reasons therefor, lodge notice with the Secretary of his intention to appeal to the Registrar:

Provided that a registered stockbroker who is aggrieved by action taken against him by the Committee in terms of section thirty-six may lodge notice of his intention to appeal against that action in terms of this subsection.

(2) A person who is aggrieved by any action, requirement or decision taken or made, as the case may be, by the Registrar in terms of this Act, may, within a period of thirty days from the date on which he is informed in writing of that action, requirement or decision, as the case may be, and of the reasons therefor, lodge notice with the Registrar of his intention to appeal to the Minister.

(3) A notice of an appeal lodged in terms of subsection (1) or (2) shall—

(a) be in writing; and

(b) specify in detail the grounds upon which the appeal is made.

(4) In the case of a notice of an appeal lodged in terms of—

(a) subsection (1), the Secretary shall forward copies of that notice of appeal to the Registrar and the Committee;

(b) subsection (2), the Registrar shall forward copies of that notice of appeal to the Minister and the person, not being the appellant, interested in the outcome of the appeal;

(c) subsection (1) or (2), the execution of the action, requirement or decision taken or made, as the case may be, by the Committee or the Registrar against which appeal is made, shall not be suspended until the termination of the appeal unless the Committee or the Registrar, as the case may be, otherwise orders.

(5) In subsection (2) and paragraph (b) of subsection (4)—  
“person” includes the Committee.

#### 40 Determination of appeals by Registrar or Minister

(1) For the purpose of the determination of an appeal, notice of which is lodged in terms of—

(a) subsection (1) of section thirty-nine, the Registrar shall, as soon as may be after receiving a copy of that notice of appeal, invite the Committee;

(b) subsection (2) of section thirty-nine, the Minister shall, as soon as may be after receiving a copy of that notice of appeal, invite the Registrar and the other person, not being the appellant, interested in the outcome of the appeal; to deliver to him within a period of thirty days from the date of dispatch of that invitation, submissions in writing relating to the grounds upon which the appeal is made.

(2) After considering any submissions in writing delivered in terms of subsection (1) in conjunction with the notice of appeal lodged in terms of—

(a) subsection (1) of section thirty-nine, the Registrar;

(b) subsection (2) of section thirty-nine, the Minister;

may allow the appeal wholly or in part or dismiss the appeal and make an order accordingly:

Provided that the Registrar or the Minister, as the case may be, may, before allowing or dismissing the appeal—

(a) call for additional information relevant to the determination of the appeal; and

(b) in the case of—

(i) the Registrar, invite the Committee;

(ii) the Minister, invite the Registrar and the Committee;

and the other person interested in the outcome of the appeal to comment in writing, within a period specified by the Registrar or the Minister, as the case may be, upon the additional information referred to in paragraph (a).

(3) Where the Registrar has made an order in terms of subsection (2), he shall take appropriate action in terms of paragraph (d) of subsection (2) of section twenty-three.

(4) In paragraph (b) of subsection (1)—  
“person” includes the Committee.

### PART VII

#### FINANCIAL PROVISIONS RELATING TO EXCHANGE

##### 41 Funds of Exchange

Subject to Part XIII, the funds of the Exchange shall consist of—

(a) the proceeds of the issue, or the commission specified in the rules as payable to the Exchange on the transfer, of proprietary rights; and

(b) fees paid by issuers in respect of the inclusion of their securities in the official list; and

(c) annual subscriptions paid to the Exchange by members of the

Exchange; and

(d) fees, charges and other moneys payable to the Exchange in terms of this Act; and

(e) such moneys and assets other than those referred to in paragraphs (a) to (d) as may accrue to or vest in the Exchange, whether in the course of the exercise of the functions of the Committee or otherwise.

#### 42 Records of Exchange

(1) The Secretary shall—

(a) keep proper accounts and other records relating to all of the affairs and property of the Exchange, including such particular records as the Minister may direct; and

(b) preserve the records kept in terms of paragraph (a) for a period of not less than six years from the date of the last entry therein.

(2) The records referred to in subsection (1) shall be kept by the Secretary at the principal office of the Exchange and shall, at all reasonable times, be open to inspection by—

(a) each Committee member; and

(b) the Registrar; and

(c) the Exchange auditor.

(3) The Secretary shall, after the end of every financial year of the Exchange, prepare—

(a) an account of all revenue and expenditure of the Exchange; and

(b) a balance sheet; and

(c) a report setting out the activities of the Exchange; and

(d) such accounts, statements and reports other than those referred to in paragraphs (a) to (c) as may be prescribed; in respect of that financial year.

(4) All documents prepared in terms of subsection (3) and audited in terms of section forty-four shall be signed by the chairman and not less than two other Committee members, and copies thereof shall be—

(a) sent by the Secretary to—

(i) every member of the Exchange; and

(ii) each appointed Committee member; and

(iii) the Registrar; and

(iv) the Exchange auditor;

with the notice referred to in subsection (1) of section nineteen; and

(b) laid by the Secretary before the annual general meeting next following the end of the financial year in respect of which they were prepared.

#### 43 Election or appointment of Exchange auditor

(1) Members of the Exchange shall, subject to the provisions of subsection (5), at every annual general meeting elect an auditor to hold office from the conclusion of that annual general meeting until the conclusion of the next annual general meeting:

Provided that if members of the Exchange for any reason fail, neglect or refuse to elect an auditor in terms of this subsection, the Minister may, subject to subsection (5), appoint an auditor to hold office until the conclusion of the next annual general meeting.

(2) A retiring auditor shall be eligible for re-election or reappointment, as the case may be, and no person other than the retiring auditor shall be elected in terms of subsection (1) unless notice in writing of the proposal to put forward the name of that person for election as auditor has been given by the Committee to—



- (a) every member of the Exchange; and
- (b) each appointed Committee member; and
- (c) the Registrar; and
- (d) the retiring auditor;

not less than twenty-eight days before the annual general meeting concerned.

(3) On the death of, or the vacation of office by, an auditor elected or appointed in terms of this section, the Committee may, subject to the provisions of subsection (5), appoint an auditor to fill the vacancy until the expiry of the period during which the first-mentioned auditor would, but for his death or the vacation of his office, have continued in office.

(4) The Committee shall, within a period of fourteen days from the date of election or appointment of an auditor in terms of this section, notify the Registrar in writing of that election or appointment.

(5) No person shall be elected or appointed as an auditor in terms of this section unless he is registered as a public auditor in terms of the Public Accountants and Auditors Act [Chapter 27:12].

#### 44 Duties of Exchange auditor

(1) The Exchange auditor shall make a report to the Exchange on the records kept in terms of paragraph (a) of subsection (1) of section forty-two and on the documents prepared in terms of subsection (3) of that section and the report shall state whether or not those documents give a true and fair view of the state of the financial affairs of the Exchange.

(2) In addition to the report referred to in subsection (1), the Registrar may require the Committee to obtain from the Exchange auditor such other reports in connection with the financial affairs of the Exchange as the Registrar may consider expedient.

(3) If, in the opinion of the Exchange auditor—

- (a) he has not obtained the information and explanations he requires; or
- (b) the records kept in terms of paragraph (a) of subsection (1) of section forty-two have not been properly kept; or
- (c) the Committee has not complied with section forty-two;

the Exchange auditor shall include in the report made in terms of subsection (1) or (2), as the case may be, statements to that effect.

(4) If, in the opinion of the Exchange auditor, he is unable for any reason to make the report referred to in subsection (1), he shall inscribe upon, or attach to, the balance sheet prepared in terms of paragraph (b) of subsection (3) of section forty-two—

- (a) a statement to that effect; and
- (b) the facts or circumstances which prevent him from making that report.

(5) Any statement or report made by the Exchange auditor in terms of this section shall—

- (a) unless all members of the Exchange present at an Exchange meeting resolve to the contrary, be read out to the Exchange at the Exchange meeting; and
- (b) at all reasonable times be open to inspection by—
  - (i) every member of the Exchange; and
  - (ii) each appointed Committee member; and
  - (iii) the Registrar.

#### 45 Powers of Exchange auditor

The Exchange auditor shall be entitled—

- (a) at all reasonable times to require—

(i) to be produced to him the records kept in terms of paragraph (a) of subsection (1) of section forty-two; and

- (ii) from any member of the Exchange or employee or agent of the

Exchange such information and explanations as in his opinion are necessary for the purposes of his audit;

and

(b) to attend any Exchange meeting; and

(c) to be heard at any Exchange meeting on any part of the business of the

Exchange meeting which concerns him in his capacity as the Exchange auditor.

#### PART VIII

#### FINANCIAL PROVISIONS RELATING TO REGISTERED STOCKBROKERS

##### 46 Records of registered stockbroker

Every registered stockbroker shall—

(a) keep such books, accounts, scrip registers and other records as may be necessary to show the nature and details of all dealings and transactions entered into by him in his practice; and

(b) preserve the records kept in terms of paragraph (a) in a safe place for a period of not less than six years from the date of the last entry therein; and

(c) as soon as is possible after the end of his financial year, prepare a balance sheet and profit and loss account in respect of that financial year; and

(d) cause—

(i) the records kept in terms of paragraph (a); and

(ii) the balance sheet and profit and loss account prepared in terms of paragraph (c);

to be examined by an auditor who shall be registered as a public auditor in terms of the Public Accountants and Auditor Act [Chapter 27:12]:

Provided that, where—

(a) a registered stockbroker is a member of a partnership; and

(b) the partnership referred to in paragraph (a) has, on behalf of each partner, complied with the requirements set out in this section;

it shall not be necessary for the registered stockbroker referred to in paragraph (a) himself to comply with the requirements set out in this section.

##### 47 Report of auditor of registered stockbroker

(1) Every registered stockbroker shall, within a period of six months from the end of his financial year, submit to the Registrar—

(a) a copy of the balance sheet prepared in terms of paragraph (c) of section forty-six and signed by that registered stockbroker or, where that registered stockbroker is a member of a partnership, by not less than two members of the partnership or, where that registered stockbroker is a company, by not less than two directors of the company; and

(b) a report by the auditor on—

(i) the records kept in terms of paragraph (a); and

(ii) the balance sheet and profit and loss account prepared in terms of paragraph (c);

of section forty-six:

Provided that, where—

(a) a registered stockbroker is a member of a partnership; and

(b) the partnership referred to in paragraph (a) has, on behalf of each partner, complied with the requirement set out in this subsection;

it shall not be necessary for the registered stockbroker referred to in paragraph (a) himself to comply with the requirements of this subsection.

(2) In the report referred to in subsection (1), the auditor shall state whether or not, in his opinion, the balance sheet and profit and loss account prepared in terms of paragraph (c) of section forty-six give a true and fair view of—

(a) the state of the financial affairs of the registered stock broker concerned on the date to which that balance sheet relates; and

(b) the profit or loss made by the registered stockbroker concerned during the financial year which ended on the date referred to in paragraph (a).

(3) If the auditor—

(a) is not satisfied that—

(i) the requirements of section forty-six have been complied with; or

(ii) he has obtained all the information and explanations he requires; or

(iii) listed securities deposited with the registered stockbroker concerned by another person, including listed securities held in safe custody, are—

A. in the possession of that registered stockbroker; or

B. in the possession of a person other than that registered stockbroker, from which person the auditor has received independent verification in writing that those listed securities are free from any lien, charge or other encumbrance; or

(iv) the registered stockbroker concerned has complied with those provisions of this Act which relate to his financial affairs;

or

(b) has not received from the registered stockbroker concerned or from the partnership, if any, of which that registered stockbroker is a member, a certificate stating that the registered stockbroker owns assets in Zimbabwe which exceed his liabilities as specified in subparagraph (iii) of paragraph (a) of subsection (1) of section thirty-one or subparagraph (ii) of paragraph (a) of subsection (1) of section thirty-two, as the case may be;

the auditor shall include a statement to that effect in the report referred to in subsection (1).

(4) In addition to the report referred to in subsection (1), the Registrar may require the registered stockbroker or partnership concerned to obtain from the auditor such other reports in connection with the state of the financial affairs of that registered stockbroker as the Registrar may consider expedient.

(5) In this section—

“auditor” means the auditor referred to in paragraph (d) of section forty-six.

48 Professional indemnity insurance

A registered stockbroker shall maintain such policy or policies of insurance with an insurer as the Registrar may deem adequate to make good any loss resulting from the negligence or dishonesty of any of the employees or associate members of the registered stockbroker:

Provided that, where—

(a) a registered stockbroker is a member of a partnership; and

(b) the partnership referred to in paragraph (a) maintains such policy or policies of insurance as the Registrar may consider adequate to make good any loss resulting from the negligence or dishonesty of any of the employees or associate members of the partners;

it shall not be necessary for the registered stockbroker to comply himself with the requirement set out in this section.

PART IX

TRANSFER OF LISTED SECURITIES

49 Interpretation in Part IX

In this Part—

“broker’s transfer form” means the form prescribed as a broker’s transfer form and includes any substantially similar form which is recognized by the law of the country in which the relevant transfer is registered;

“Exchange transaction” means a transaction for the purchase and sale of any listed securities in which each party thereto is—

- (a) a registered stockbroker; or
- (b) acting through the agency of a registered stockbroker;

acting in the ordinary course of his practice;

“issuer” means any issuer of listed securities, including the State;

“securities’ transfer form” means the form prescribed as a securities’ transfer form, and includes any substantially similar form which is recognized by the law of the country in which the relevant transfer is registered.

50 Manner in which listed securities may be transferred

(1) Notwithstanding anything to the contrary contained in any law or any memorandum or articles of association of any company or of any contract which relate to the transfer of any listed security—

(a) a listed security may be transferred by means of a securities’ transfer form; or

(b) a listed security may, for the purposes of an Exchange transaction, be transferred by means of both a securities’ transfer form and a broker’s transfer form, in which event—

(i) it shall not be necessary to complete the securities’ transfer form in respect of the particulars relating to the transferee and the consideration passing; and

(ii) a separate broker’s transfer form may be used in respect of each transferee concerned in the Exchange transaction.

(2) It shall not be necessary for the execution of a securities’ transfer form or a broker’s transfer form to be attested.

(3) Nothing in this section contained shall be construed as—

(a) preventing the transfer of a listed security by means of any form in use immediately prior to the 1st April, 1967; or

(b) entitling an issuer to refuse the registration of any person as the holder of a listed security on the ground that the transfer purports to be effected by means of a securities’ transfer form or a broker’s transfer form; or

(c) affecting the provisions of any law or of any memorandum or articles of association of any company or of any contract which deal with the manner in which any document shall be signed or sealed by or on behalf of any company; or

(d) affecting the liability for the payment of any duty payable in respect of the registration of the transfer of any listed security.

51 Certification by issuer that listed securities have been lodged for transfer

(1) If an issuer under the signature of any person authorized to certify transfers of listed securities on behalf of the issuer endorses on any instrument of transfer referred to in section fifty and executed by or on behalf of the transferor that the certificate relating to the listed securities concerned has been lodged with the issuer, the issuer shall, for the purposes of this section, be deemed to have certified that instrument.

(2) A certification in terms of subsection (1) shall, for the purposes of this section, be deemed to be signed if it purports to be authenticated by the signature of any person, whether by autograph or by mechanical means, unless it is shown that that signature is not that of a person authorized to certify transfers of listed securities on behalf of the issuer concerned.

(3) The certification by an issuer in terms of subsection (1) shall be taken as a representation by the issuer to any person acting on the faith of that certification that—

(a) there have been lodged with the issuer the necessary documents relating to the listed securities mentioned in the instrument of transfer; and

(b) it appears from the documents referred to in paragraph (a) that the title to the listed securities is held by the transferor named in the instrument of transfer.

(4) The representation referred to in subsection (3) shall not be taken as a representation that the transferor named in the instrument of transfer concerned has in fact any title to the listed securities concerned.

(5) Where a person acts on the faith of an incorrect certification negligently made by an issuer, the person shall be in the same position with reference to the issuer as if the certification had been fraudulently made.

(6) Subject to subsections (3), (4) and (5), the delivery to any person of any instrument of transfer certified in terms of subsection (1) shall confer on the person the same rights as the person would have acquired before the 1st April, 1967, upon the delivery to him of a certificate for the listed securities concerned and an instrument of transfer signed by the transferor in blank.

(7) The certificates of any listed securities in respect of which an issuer has certified any instrument of transfer as provided in this section shall upon that certification be cancelled by the issuer.

52 Duty of issuer with reference to persons under contractual disability

When an issuer records in its registers the transfer of any listed security, it shall not be under any duty to satisfy itself that—

(a) that transfer is within the contractual power of the transferor or transferee; or

(b) any legal requisite relating to the ability of the transferor or transferee to transfer or to take transfer has been complied with; or

(c) any person signing any document relevant to that transfer on behalf of any other person has been duly authorized to sign that document:

Provided that this section shall not absolve any issuer from liability arising from any fraudulent act to which it is knowingly a party.

53 Warranty and indemnity by persons lodging documents of transfer

A person who, for the purpose of the issue or transfer of any listed security, as principal or agent lodges with the issuer of the listed security any document relating to that issue or transfer, shall be deemed thereby to warrant that—

(a) that document is genuine; and

(b) he or, when he is acting as agent, his principal jointly and severally with him, indemnifies that issuer against—

(i) any claim made upon it; and

(ii) any loss or damage suffered by it;

arising out of that issuer registering an issue or transfer of the listed security referred to in that document.

## PART X

### PROVISIONS GOVERNING STOCKBROKING TRANSACTIONS

54 Registered stockbroker to dispatch broker's note to client within twenty-four hours of purchase or sale of listed securities

(1) Subject to section 17 of the Stamp Duties Act [Chapter 23:09], a registered stockbroker who has purchased or sold in Zimbabwe any listed securities on behalf of a client shall, within twenty-four hours of that purchase or sale, as the case may be, dispatch to the client a broker's note—

(a) advising the purchase or sale of the listed securities; and

(b) stating the price at which the purchase or sale referred to in paragraph (a) was effected and the brokerage charged in respect of that purchase or sale; and

(c) with the words "Subject to the Zimbabwe Stock Exchange Act [Chapter 24:18] and the regulations and rules made thereunder and the usage of the

Zimbabwe Stock Exchange” thereon; and

(d) containing such particulars, other than those set out in paragraphs (a) to (c), as may be prescribed.

(2) A registered stockbroker who does not comply with subsection (1) shall not have any legal claim to brokerage in respect of the purchase or sale concerned, whether or not he ceases to be registered after that purchase or sale.

55 Registered stockbroker to act as agent of client in purchase or sale of listed securities unless otherwise authorized and makes disclosure

A registered stockbroker who has been instructed by a client—

(a) to purchase any listed securities on behalf of the client shall not, in connection with that purchase, enter into any arrangement whereby, instead of purchasing the listed securities from a third party, the registered stockbroker sells his own listed securities to the client; or

(b) to sell any listed securities on behalf of the client shall not, in connection with that sale, enter into any arrangement whereby, instead of selling the listed securities to a third party, the registered stockbroker purchases the listed securities on his own behalf;

unless that registered stockbroker—

(i) has obtained the consent of the client to that arrangement; and

(ii) discloses that arrangement to the client in the broker’s note concerned.

56 Restrictions on bear sales

(1) No client shall instruct a registered stockbroker to enter into a bear sale unless, at the time that instruction is given, the client—

(a) discloses in writing to the registered stockbroker that the proposed sale is a bear sale; and

(b) deposits with the registered stockbroker cash or cheques to the value of the listed securities to be sold, that value being—

(i) calculated on the last selling price on the Exchange of one unit of the listed securities concerned multiplied by the number of units of the listed securities to be sold; or

(ii) any sum determined by the registered stockbroker which exceeds the value of those listed securities calculated in terms of subparagraph (i).

(2) A client who contravenes subsection (1) shall be guilty of an offence.

(3) A registered stockbroker who—

(a) has been instructed by a client to enter into a bear sale—

(i) may refuse to comply with that instruction; or

(ii) if he agrees to enter into the bear sale, shall forthwith disclose that fact to the Secretary;

(b) learns of a bear sale—

(i) entered into—

A. unwittingly by himself; or

B. by another registered stockbroker; and

(ii) which has not been disclosed to the Secretary;

shall forthwith disclose the bear sale to the Secretary.

(4) No person shall on his own behalf or on behalf of any other person effect a bear sale at a price—

(a) below the cash sales’ price of the listed securities last recorded by the Exchange; or

(b) equalling the cash sales’ price of the listed securities last recorded by the Exchange, unless that cash sales’ price exceeds the most recent different cash sales’ price of the listed securities recorded by the Exchange.

(5) A person who contravenes subsection (4) shall be guilty of an offence.

(6) Notwithstanding anything contained in this section—

(a) a director or member of the board of a company who effects a bear sale of the listed securities of the company; or

(b) the beneficial owner of more than ten per centum in value of any class of listed securities of a company who effects a bear sale of any of the listed securities of the company; or

(c) a person who—

(i) has received or has access to confidential information which may affect the purchase price of the listed securities of a company; and

(ii) effects a bear sale of the listed securities of the company referred to in subparagraph (i);

shall be guilty of an offence and liable to a fine not exceeding six thousand dollars or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

(7) In this section—

“bear sale”—

(a) means a sale of listed securities of which the seller is not, and is not entitled to become, the owner at the time the sale is effected; and

(b) in subsection (6), includes any bear sale of listed securities effected by any person referred to in paragraph (a), (b) or (c) of that subsection where, before the completion of that bear sale, that person repurchases the listed securities.

57 When listed securities purchased by registered stockbroker on behalf of client must be paid for, and duty of registered stockbroker if purchase price not paid

(1) Where a registered stockbroker purchases any listed securities on behalf of a client, the client shall pay to the registered stockbroker the purchase price of the listed securities in cash or by cheque against an offer to deliver the listed securities, unless the client—

(a) arranges with a banking institution or non-member institution for the listed securities to be paid for against delivery of the listed securities to the banking institution or non-member institution; and

(b) notifies the registered stockbroker in writing of the arrangement referred to in paragraph (a).

(2) A registered stockbroker referred to in subsection (1) who has not been—

(a) paid the purchase price of the listed securities concerned in terms of that subsection; and

(b) notified in terms of paragraph (b) of that subsection;

shall sell, as soon as is reasonably possible after the failure to pay that purchase price and, in any event, not later than sixty days thereafter, those listed securities on behalf of the client.

(3) If the sum realized by the sale referred to in subsection (2) is less than the purchase price referred to in subsection (1), the registered stockbroker concerned shall, as soon as is reasonably possible after that sale and, in any event, not later than sixty days thereafter, sell on his own behalf so much of any other securities—

(a) held by him on behalf of; or

(b) to be delivered to him by;

the client concerned as may be necessary to realize the difference between that sum and that purchase price.

(4) A registered stockbroker referred to in subsection (1) who has not been paid the purchase price of the listed securities concerned in terms of that subsection and has been notified in terms of paragraph (b) of that subsection shall—

(a) before purchasing those listed securities on behalf of the client, satisfy himself that the arrangement referred to in paragraph (a) of that subsection has been made; and

(b) as soon as is reasonably possible after purchasing those listed securities on behalf of the client, offer to deliver those listed securities in negotiable order to the banking institution or non-member institution concerned against payment of the purchase price of those listed securities; and

(c) if payment of the purchase price of those listed securities is not made forthwith in terms of paragraph (b), sell, as soon as is reasonably possible after the date of the failure to make that payment and, in any event, not later than sixty days thereafter, those listed securities on behalf of the client.

(5) If the sum realized by the sale referred to in paragraph (c) of subsection (4) is less than the purchase price referred to in subsection (1), the registered stockbroker concerned shall, as soon as is reasonably possible after the date of the failure to make the payment referred to in that paragraph and, in any event, not later than sixty days thereafter, sell on his own behalf so much of any other securities—

(a) held by him on behalf of; or

(b) to be delivered to him by;

the client concerned as may be necessary to realize the difference between that sum and that purchase price.

(6) In this section—

“purchase price” includes the brokerage payable on the purchase of the listed securities concerned.

58 Registered stockbroker purchasing listed securities on behalf of client responsible for collection of rights attaching to listed securities

Where a registered stockbroker purchases any listed securities on behalf of a client, the registered stockbroker shall be responsible for the collection of all dividends, capitalization issues, rights issues, share bonuses or other rights attaching to the listed securities in terms of the contract of sale until the listed securities have been delivered in negotiable order to the client.

59 Duties of registered stockbroker and client where registered stockbroker sells listed securities on behalf of client

Where a registered stockbroker sells any listed securities on behalf of a client—

(a) the client shall be responsible for effecting delivery to the registered stockbroker, for transmission to the purchaser of the listed securities, of all dividends, capitalization issues, rights issues, share bonuses or other rights attaching to the listed securities in terms of the contract of sale prior to the delivery referred to in paragraph (b);

(b) the registered stockbroker shall pay to the client the proceeds of that sale, less brokerage, against delivery of the listed securities in negotiable order to the registered stockbroker.

60 Duty of registered stockbroker in relation to listed securities deposited for sale or safe custody, documents of title relating to listed securities and listed securities pledged with him

(1) Where listed securities are deposited by a client with a registered stockbroker for sale or safe custody, the registered stockbroker shall forthwith issue to the client a receipt—

(a) signed by or on behalf of the registered stockbroker; and

(b) containing a description of the listed securities sufficient to identify the same; and

(c) setting forth the purpose for which the listed securities were deposited.



(2) Where a document of title relating to listed securities comes into the possession of a registered stockbroker, the registered stockbroker shall, as soon as is reasonably possible, mark that document of title in such a manner as readily to enable the identity of the owner of that document of title to be traced.

(3) A registered stockbroker shall not pledge to a third party listed securities which a client has pledged to the registered stockbroker for an amount which—

(a) exceeds the amount owed to the registered stockbroker by the client in connection with the second-mentioned pledge; or

(b) does not exceed the amount referred to in paragraph (a) without the consent in writing of the client.

61 Registered stockbrokers and partnerships required to submit schedules of purchases and sales of listed securities to Registrar

(1) Each registered stockbroker who is not a member of a partnership and each partnership of registered stockbrokers shall, within a period of three months from the end of each financial year of the Exchange, submit to the Registrar a schedule reflecting all purchases and sales of listed securities, other than purchases and sales made in the course of arbitrage transactions, made on the account of that registered stockbroker or partnership, as the case may be, during that financial year.

(2) In subsection (1)—

“arbitrage transactions” means purchases or sales of certain listed securities made on one stock exchange with the intention of selling or purchasing those listed securities on another stock exchange in order to profit by the differences between the prices of those listed securities on those stock exchanges.

62 Client entitled to sue own registered stockbroker only

Where a client is dissatisfied with an Exchange transaction or with the conduct of one or more of the parties thereto and wishes to obtain relief in respect of the Exchange transaction or that conduct, he shall not be entitled to institute legal proceedings against any registered stockbroker other than the registered stockbroker who acted as the agent of the client in respect of the Exchange transaction.

## PART XI

### POWERS OF MINISTER

63 Interpretation in Part XI

In this Part—

“investigation” means an investigation referred to in subsection (1) of section sixty-four;

“report” means a report referred to in subsection (1) of section sixty-six.

64 Power of Minister to appoint inspectors

(1) Subject to subsection (2), where—

(a) the Exchange or a registered stockbroker has failed, within a period of sixty days after receiving notice in writing from the Registrar to render, correct or complete a return required by or under this Act, to render, correct or complete that return; or

(b) the Registrar is in possession of information which, in the opinion of the Minister, makes it desirable to investigate the affairs of the Exchange or a registered stockbroker; or

(c) not less than seven registered stockbrokers apply in writing to the Minister for an investigation of the affairs of the Exchange or a registered stockbroker to be made; or

(d) a person submits a written complaint of alleged conduct referred to in paragraph (d) or (e) of subsection (1) of section seventy-three on the part of a registered stockbroker;

the Minister may appoint one or more inspectors to—

(i) investigate the affairs of the Exchange or registered stockbroker, as the case may be; and

(ii) report to the Minister on an investigation referred to in subparagraph (i) in such manner as the Minister may direct.

(2) In the case of an application made in terms of paragraph (c) of subsection (1) or a complaint submitted in terms of paragraph (d) of that subsection, the Minister—

(a) may require the applicants or complainant, as the case may be, to furnish such security as he may specify for the payment of the expenses of the investigation;

(b) shall consult the Committee before deciding whether or not an investigation is justified.

65 Powers, rights and privileges of inspector

An inspector shall, for the purposes of making an investigation, have the same powers, rights and privileges as are conferred upon a commissioner by the Commissions of Inquiry Act [Chapter 10:07], other than the powers to order persons to be detained in custody, and sections 9 to 13 and 15 to 19 of that Act shall apply, *mutatis mutandis*, in relation to the investigation and to any persons summoned to give evidence or giving evidence at the investigation.

66 Inspector to report to Minister and Minister to circulate report

(1) An inspector—

(a) may and, if so directed by the Minister, shall submit interim reports to the Minister concerning the investigation being made by him;

(b) shall, on the conclusion of the investigation made by him, submit a final report to the Minister on that investigation.

(2) The Minister—

(a) shall send copies of a report—

(i) to the Committee; and

(ii) to any registered stockbroker whose affairs are being or have been investigated; and

(iii) in the case of an application made in terms of paragraph (c) of subsection (1) of section sixty-four, to the registered stockbrokers who made that application; and

(iv) in the case of a complaint submitted in terms of paragraph (d) of subsection (1) of section sixty-four, to the person who submitted the complaint;

and

(b) may cause a report to be printed and published.

67 Duty of Minister if he suspects commission of offence

If, after consideration of a report, the Minister is of the opinion that there are reasonable grounds for suspecting that any person has committed an offence, he shall refer the matter to the Attorney-General.

68 Expenses of investigation

(1) Subject to subsections (2) and (3), all expenses incurred in connection with an investigation shall in the first instance be defrayed by the Minister.

(2) The Minister may direct—

(a) a registered stockbroker referred to in paragraph (c); or

(b) a person referred to in paragraph (d);

of subsection (1) of section sixty-four to pay the whole or any part of the expenses referred to in subsection (1) to the Minister:

Provided that, before making that direction, the Minister shall—

(a) where he has referred a matter to the Attorney-General in terms of

section sixty-seven—

(i) await the outcome of any criminal proceedings instituted as a result of that reference; and

(ii) take into account in making that direction any order made in terms of subsection (3) in the criminal proceedings referred to in subparagraph (i);  
and

(b) notify that registered stockbroker or that person, as the case may be, in writing that the Minister proposes to make that direction; and

(c) afford that registered stockbroker or that person, as the case may be, an opportunity to show cause in writing why that direction should not be made.

(3) A person who is found guilty of an offence prosecuted as a result of an investigation may be ordered by the court which convicted him to pay to the Minister the whole or any part of the expenses referred to in subsection (1).

(4) Notwithstanding anything contained in any law, a magistrate shall have special jurisdiction to make an order in terms of subsection (3) in an amount not exceeding four thousand dollars.

(5) The expenses to be defrayed by the Minister in terms of subsection (1) shall be paid out of moneys appropriated for the purpose by Act of Parliament and any sums directed or ordered to be paid to the Minister in terms of subsection (2) or (3) shall be—

(a) recoverable by the Minister by proceedings in a competent court; and

(b) paid into the Consolidated Revenue Fund.

69 Minister may suspend operation of Exchange

The Minister may—

(a) after consideration of a report; or

(b) upon a request made by the Committee or contained in a resolution passed by a majority of registered stockbrokers holding not less than three-quarters of the total number of proprietary rights issued by the Exchange; or

(c) of his own motion, where he considers that special circumstances requiring the suspension of the operation of the Exchange exist and after consultation with the Committee;

by notice in the Gazette, suspend the operation of the Exchange for a period not exceeding one month at any one time.

## PART XI

### RESTRICTIONS ON ADVERTISING AND OTHER ACTIVITIES IN RELATION TO EXCHANGE

70 Restrictions on advertising, or canvassing or advertising for business

(1) Subject to this Act—

(a) no registered stockbroker shall, without the approval canvassing or in writing of the Committee, publish any advertisement advertising for business, in connection with—

(i) his practice; or

(ii) any business carried on by him in addition to his practice:

Provided that a registered stockbroker may, without the consent of the Committee, publish an advertisement for the sole purpose of filling a vacancy in the staff of his office;

(b) no person, other than a non-member institution, shall on his own behalf or on behalf of any other person, directly or indirectly canvass or advertise for any business forming part of the practice of a stockbroker.

(2) A person who contravenes paragraph (b) of subsection (1) shall be guilty of an offence and liable to a fine not exceeding six thousand dollars or to imprisonment for

a period not exceeding three years or to both such fine and such imprisonment.

(3) The Registrar may, if he disapproves of any advertisement referred to in paragraph (a) of subsection (1), notify the Committee in writing of his disapproval and the Committee shall thereupon require the registered stockbroker concerned to withdraw that advertisement.

(4) Notwithstanding anything contained in subsection (1), every registered stockbroker shall display conspicuously and in easily legible letters—

(a) at the entrance to every premises where he carries on his practice; and

(b) on every business communication published or issued by him or on his behalf;

his name and the words “Member of the Zimbabwe Stock Exchange”.

(5) No registered stockbroker shall—

(a) contribute articles on financial matters to any newspaper, periodical or news agency; or

(b) supply any newspaper, periodical or news agency with any factual information relating to the Exchange; or

(c) by radio or television broadcast—

(i) on financial matters; or

(ii) factual information relating to the exchange;

unless he has been authorized by the Committee to do so on behalf of the Exchange.

71 Misleading circulars, reports, forecasts or other statements

(1) Neither the Exchange nor a registered stockbroker shall knowingly publish or cause to be published any circular, report, forecast or other statement—

(a) which is likely to mislead the public or a section thereof in any way as to—

(i) the affairs of the Exchange or the registered stockbroker, as the case may be; or

(ii) the affairs or future performance of any company; or

(b) in connection with the affairs of the Exchange or the registered stockbroker, unless the name of the Exchange or the registered stockbroker, as the case may be, is clearly stated in that circular, report, forecast or other statement.

(2) The Registrar may, if he considers that any circular, report, forecast or other statement referred to in subsection (1)—

(a) is likely to mislead the public or a section thereof within the meaning of paragraph (a); or

(b) does not contain a clear statement of the name of the Exchange or the registered stockbroker concerned, as the case may be, as required by paragraph (b); of that subsection, by notice in writing draw the attention of the Exchange or the registered stockbroker concerned, as the case may be, to that circular, report, forecast or other statement.

(3) Upon receipt of a notice referred to in subsection (2), the Exchange or the registered stockbroker concerned, as the case may be, shall forthwith stop, or cause to be stopped, publication and distribution of the circular, report, forecast or other statement to which that notice refers.

72 Restrictions on issue of circulars, reports, forecasts or other statements in writing by registered stockbroker

(1) Subject to this Act, no registered stockbroker shall issue any circular, report, forecast or other statement in writing—

(a) relating to listed securities or to a company, any of the securities of which are listed securities; and

(b) compiled for the information of his clients; to any person—

(i) other than a person on whose behalf he has previously entered into a transaction relating to securities, unless the first-mentioned person has requested in writing that that circular, report, forecast or other statement in writing be issued to him:

Provided that a registered stockbroker may, with the consent in writing of the Committee, issue a statement in writing on behalf of a client to the holders of the securities of any company offering to acquire those securities; and

(ii) where that registered stockbroker has a direct interest in the listed securities or company referred to in paragraph (a), unless the registered stockbroker discloses that interest in that circular, report, forecast or other statement in writing.

(2) Subsection (1) shall not prohibit a registered stockbroker from issuing any circular, report, forecast or other statement in writing referred to in that subsection to the Secretary, the Minister, the Registrar, the Committee, the Exchange auditor, an auditor referred to in paragraph (d) of section forty-six or another registered stockbroker.

(3) A registered stockbroker who issues a circular, report, forecast or other statement in writing referred to in subsection (1) shall file a copy of that circular, report, forecast or other statement with the Secretary within a period of seven days from the date of issue thereof.

73 Prohibition of fraudulent acts or of carrying on business of stock exchange

(1) No person shall—

(a) make or cause or permit to be made in any document or return which is required by or under this Act to be sent to the Secretary, the Minister, the Registrar, the Committee, the Exchange auditor or an auditor referred to in paragraph (d) of section forty-six a statement which he knows to be false or does not know or believe to be true; or

(b) by addition, alteration, erasure or omission falsify any document or return referred to in paragraph (a); or

(c) by any statement, promise or forecast which he knows to be false or does not know or believe to be true induce any other person to purchase or sell any securities; or

(d) directly or indirectly use or take part in any manipulative or deceptive method of dealing in listed securities likely to stimulate further dealings in listed securities or any class or classes thereof on the Exchange; or

(e) by means of fictitious transactions or the spreading of false reports influence the prices of listed securities or any class or classes thereof on the Exchange.

(2) No person, other than the Exchange, shall carry on the business of a stock exchange in Zimbabwe after the date of the further resolution.

(3) Any person who contravenes—

(a) paragraph (a), (b) or (c) of subsection (1) shall be guilty of an offence;

(b) paragraph (d) or (e) of subsection (1) or the provisions of subsection (2) shall be guilty of an offence and liable to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

74 Certain words not to be used except by Exchange or member of Exchange

(1) Save with the consent of the Registrar, who may impose such conditions as he thinks fit, no person other than the Exchange or a member of the Exchange shall use in the description or title under which that person is carrying on business in Zimbabwe the expression “stock exchange” or “stockbroker” or a literal translation of any such expression or any combination of letters in which “stock exchange” or

“stockbroker” appears.

(2) The Registrar may at any time vary or withdraw his consent granted to any person in accordance with subsection (1) or may impose new or additional or alternative conditions as he thinks fit.

(3) Any person who contravenes subsection (1) shall be guilty of an offence.

### PART XIII

#### ZIMBABWE STOCK EXCHANGE SECURITY FUND

##### 75 Interpretation in Part XIII

In this Part—

“member” means a member of the Board;

“security fund certificate” means a security fund certificate issued in terms of subsection (2) of section eighty-two.

##### 76 Establishment of Zimbabwe Stock Exchange Security Fund and Board of Trustees thereof

(1) There is hereby established a fund, to be known as the Zimbabwe Stock Exchange Security Fund, which shall be vested in the Board.

(2) There is hereby established a board of trustees, to be known as the Board of Trustees of the Zimbabwe Stock Exchange Security Fund, which shall—

- (a) be a body corporate; and
- (b) be capable of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform; and
- (c) subject to this Act, administer the Fund.

(3) The Board shall ensure that the total value of cash and securities in the Fund at all times exceeds—

- (a) the sum of fifty thousand dollars; or
  - (b) such sum exceeding fifty thousand dollars as the Exchange may from time to time determine;
- of which sum not less than ten thousand dollars shall at all times be available in cash at ninety days’ notice.

##### 77 Composition of Board

(1) The Board shall consist of—

- (a) one appointed Committee member; and
  - (b) two elected Committee members;
- appointed by the Committee.

(2) Each member shall—

- (a) hold office for one year; and
- (b) at the conclusion of his term of office be eligible for reappointment.

##### 78 Vacancies

(1) A member shall vacate his office and his office shall become vacant if he—

- (a) resigns his office; or
- (b) ceases to be a Committee member; or
- (c) is convicted of any offence which, in the opinion of the Committee, debars him from continuing as a member; or
- (d) in the opinion of the Committee, is incapacitated by illness or becomes otherwise unable or unfit to discharge the duties of his office.

(2) On the death of, or the vacation of office by, a member who was, at the date of his appointment in terms of subsection (1) of section seventy-seven—

- (a) an appointed Committee member, the Committee shall appoint an appointed Committee member; or
- (b) an elected Committee member, the Committee shall appoint an elected Committee member;

to fill the vacancy until the expiry of the period during which the member concerned would, but for his death or the vacation of his office, have continued in office.

#### 79 Constitution of Fund

The Fund shall consist of—

- (a) all contributions paid to the Fund in terms of section eighty-two; and
- (b) all income accruing from the investment of moneys in the Fund; and
- (c) all moneys borrowed for the purposes of the Fund; and
- (d) all moneys received by the Fund under any insurance effected on behalf of the Fund; and
- (e) all moneys received by the Fund in terms of section eighty-one; and
- (f) any moneys or assets, other than moneys or assets referred to in paragraphs (a) to (f), lawfully paid into or transferred to the Fund.

#### 80 Compensation for loss due to dishonesty, insolvency, death or default of certain persons

(1) Where it is proved to the satisfaction of the Board that a person has suffered loss in consequence of—

- (a) the dishonesty, insolvency, default, death or liquidation of a registered stockbroker; or
  - (b) the dishonesty of an employee or associate member or other agent of a registered stockbroker;
- in connection with—

- (i) the practice of the registered stockbroker; or
- (ii) any moneys, securities or other property entrusted to the registered stockbroker or his employee or associate member or other agent in the course of the practice referred to in subparagraph (i);

the Board may, in its entire discretion and subject to this Part, make a grant to that person out of the Fund for the purpose of relieving or making good that loss.

(2) Before considering an application for a grant in terms of this section, the Board may in its discretion require an applicant to exhaust all legal remedies available to him in respect of the loss to which the application relates.

(3) A grant may be made in terms of this section—

(a) whether or not the registered stockbroker concerned was in possession of a valid security fund certificate when—

- (i) the dishonesty, insolvency, default, death or liquidation; or
- (ii) the dishonesty of an employee or associate member or other agent; of the registered stockbroker took place;

(b) in the case of—

- (i) the dishonesty, insolvency, default or liquidation; or
- (ii) the dishonesty of an employee or associate member or other agent; of the registered stockbroker concerned, notwithstanding that

subsequent to that dishonesty, insolvency, default or liquidation, as the case may be, that registered stockbroker has—

- A. died or has been liquidated; or
- B. ceased to be a member of the Exchange or former Exchange, as the case may be; or
- C. been suspended from practice.

(4) No grant shall be made in terms of this section in respect of any loss unless notice of the loss has been given by the loser in such manner and within such period after the loss first came to his knowledge as may be specified in the rules.

#### 81 Subrogation of Board

(1) On the making of a grant in terms of section eighty to a person in respect of a

loss—

(a) the Board shall, to the amount of that grant, be subrogated in respect of the loss to any rights and remedies of—

(i) the person to whom that grant is made; or

(ii) the registered stockbroker who committed the act of dishonesty, became insolvent, defaulted, died or was liquidated; or

(iii) the employee or associate member or other agent who committed the act of dishonesty;

(b) the person to whom the grant is made shall have no right under insolvency, other legal proceedings or otherwise to receive any sum out of the assets of the registered stockbroker, employee or associate member or other agent concerned in respect of the loss until the Board has been reimbursed the full amount of the grant.

(2) Any reference in subsection (1) to the person to whom the grant is made or to the registered stockbroker, employee or associate member or other agent concerned shall include, in the event of his insolvency, death, liquidation or other disability, a reference to his personal representative or any other person having authority to administer his estate.

## 82 Security fund certificates and contributions

(1) An application for a security fund certificate shall be made to the Board in the form specified in the rules—

(a) if at the date of the further resolution the applicant is practising as a registered stockbroker, within thirty days of that date;

(b) if the applicant intends to practise as a registered stockbroker, before he commences so to practise;

(c) if the applicant is practising as a registered stockbroker and is in possession of a valid security fund certificate, before that security fund certificate ceases to be valid.

(2) Subject to subsection (5), upon receipt of—

(a) an application in terms of subsection (1); and

(b) such contribution to the Fund as may be specified in the rules;

the Board shall issue to the applicant a security fund certificate in the form specified in the rules.

(3) A security fund certificate shall be valid—

(a) if the applicant is not already in possession of a valid security fund certificate, for the period from the date of issue of the security fund certificate until the 30th September of the year in which it is issued;

(b) in the case of an applicant not referred to in paragraph (a), for a period of twelve months from the 1st October next following the application of that applicant.

(4) A registered stockbroker shall submit to the Board at such time or times as may be specified in the rules an audit certificate in the form specified in the rules.

(5) No security fund certificate shall be issued in terms of subsection (2) unless—

(a) the provisions of subsection (1) have been complied with; and

(b) an audit certificate referred to in subsection (4) has been submitted;

and any security fund certificate issued in contravention of the provisions of this subsection shall be invalid:

Provided that no audit certificate shall be required in the case of an application for a security fund certificate in terms of paragraph (a) or (b) of subsection (1).

## 83 Practising without security fund certificate an offence

(1) No person shall—

(a) practise as a registered stockbroker; or



(b) describe himself or hold himself out or allow himself to be described or held out as a registered stockbroker;

unless he is in possession of a valid security fund certificate.

(2) A person who contravenes subsection (1) shall be guilty of an offence.

(3) A conviction for a contravention of subsection (1) shall not be a bar to a further prosecution or prosecutions for the continuance of the offence.

84 Registered stockbroker without security fund certificate barred from recovering brokerage

No person shall be entitled to maintain an action or suit for the recovery of any brokerage, fee, reward or reimbursement for or in respect of any business, matter or thing done by him as a registered stockbroker at a time when he was not in possession of a valid security fund certificate.

85 Contributions may be refunded

The Board may in its discretion refund to a registered stockbroker or his estate the whole or any part of his contributions to the Fund:

Provided that the Board may deduct from the amount so refunded any moneys due by the registered stockbroker or his estate to the Exchange and pay the moneys so deducted to the Exchange.

86 Insurance

The Board may enter into a contract with an insurer whereby the Fund will be indemnified to the extent and in the manner provided by that contract against the making of grants under this Part.

87 Investments

Any moneys in the Fund which are not immediately required for the purposes thereof shall be invested in such securities as the Board may determine.

88 Borrowing

The Board may borrow moneys for the purposes of the Fund and may charge any investments of the Fund by way of security for that loan:

Provided that the aggregate sum owing at any one time in respect of any such loan or loans shall not exceed such limit as may be specified in the rules.

89 Audit

The accounts of the Fund shall be audited once at least in each calendar year by a person—

(a) registered as a public auditor in terms of the Public Accountants and Auditors Act [Chapter 27:12]; and

(b) appointed by the Board.

90 Expenditure from Fund

Subject to this Act, there shall be payable from the Fund all or any of the following—

(a) payment of any costs, charges and expenses of establishing, maintaining, administering and applying the Fund;

(b) payment of a grant in terms of section eighty;

(c) a refund of contributions under section eighty-five;

(d) payment of premiums on insurance effected on behalf of the Fund;

(e) repayment of moneys borrowed for the purposes of the Fund and payment of any interest thereon;

(f) payment for any matter, other than a matter referred to in paragraphs (a) to (e), approved by the Minister.

PART XIV

GENERAL

91 No right to legal representation

No person shall be entitled as of right to be represented before the Exchange, the

Committee, the Registrar, the Minister, an inspector or the Board by a legal practitioner.

92 Act not to require disclosure by lawyer or bankers

Nothing in this Act shall require disclosure to the Committee or any person—

(a) by a legal practitioner of any privileged communication made to him in that capacity, except as respects the name and address of his client; and

(b) by the bankers of the Exchange or any registered stockbroker of any information concerning the affairs of any of their customers save the Exchange or the registered stockbroker concerned.

93 Regulations

(1) The Minister may, after consultation with the Committee, by regulation prescribe all matters which—

(a) by this Act are required or permitted to be prescribed; or

(b) in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) In the exercise of the powers conferred upon him by subsection (1), the Minister may provide for all or any of the matters set out in the First Schedule.

(3) The fees to which the provisions of paragraph 5 of the First Schedule relate shall be paid into the Consolidated Revenue Fund.

94 Rules

(1) Subject to subsection (4), the Committee may make rules in respect of—

(a) all matters which by this Act are required or permitted to be specified in the rules; or

(b) all or any of the matters set out in the Second Schedule:

Provided that any rules and regulations made by the former Exchange which were in force immediately before the 18th January, 1974—

(a) shall—

(i) remain in force to the extent to which they are not in conflict with this Act or the regulations; and

(ii) be deemed to be rules made in terms of this subsection;  
and

(b) may be repealed or amended by rules made in terms of this subsection.

(2) Nothing in the rules shall be construed as precluding—

(a) the Committee from—

(i) investigating an allegation of disgraceful conduct which is not an act or omission specified in the rules; and

(ii) exercising the powers conferred upon the Committee by subsection (1) of section thirty-five or section thirty-six in relation to a registered stockbroker considered or found, as the case may be, by the Committee to be guilty of disgraceful conduct referred to in subparagraph (i);

or

(b) the Registrar from exercising the powers conferred upon the Registrar by subsection (3) of section thirty-five in relation to a registered stockbroker considered by the Committee to be guilty of disgraceful conduct referred to in subparagraph (i) of paragraph (a).

(3) The Committee shall ensure that a copy of the rules and of any amendments thereto is—

(a) sent by registered post to every registered stockbroker at his address as shown in the Register; and

(b) available for inspection without charge by members of the public in

every office or premises of the Exchange and in every premises in which a registered stockbroker carries on his practice.

(4) The rules shall—

(a) be subject to the approval of the Registrar; and

(b) be binding on the Exchange, the Committee, the officers and employees of the Exchange, the members of the Exchange and all persons claiming under the rules or whose claim is derived from a registered stockbroker.

(5) Where there is any conflict between the rules and this Act or regulations, the provisions of this Act or those regulations shall prevail.

95 President may amend First or Second Schedule

The President may, by statutory instrument, add to, amend or replace the whole or any part of the First Schedule or the Second Schedule.

96 General penalty

Save where otherwise specifically provided for in this Act, any person who is guilty of an offence under this Act shall be liable to a fine not exceeding four thousand dollars or to imprisonment for a period not exceeding two years.

FIRST SCHEDULE (Section 93)

MATTERS IN RESPECT OF WHICH MINISTER MAY MAKE REGULATIONS

1. Notwithstanding anything contained in the Companies Act [Chapter 24:03], the Administration of Estates Act [Chapter 6:01], the Insolvency Act [Chapter 6:04] or any other enactment, the procedure to be followed in relation to, and the administration and distribution of the Exchange estates of, defaulters and registered stockbrokers whose registrations are cancelled or who die.

2. The relationship between the Exchange and non-member institutions, including the fees and subscriptions payable by non-member institutions to the Exchange.

3. The management and review of the official list, including—

(a) the fees and subscriptions payable by issuers in respect of securities issued by them and included or sought to be included in the official list; and

(b) the exemption of specified classes of issuers, including the Government, from payment of one or more of the fees and subscriptions referred to in paragraph (a).

4. The scale according to which the brokerage, commission or other fee charged by a registered stockbroker in respect of the purchase or sale of securities or of any other service rendered by him in the course of his practice for payment or reward shall be calculated and the circumstances in which that scale may be departed from.

5. The issue of certificates of registration and duplicate certificates of registration and the fees payable in connection therewith.

6. The cancellation of the certificates of registration of persons who are no longer registered and the delivery of those certificates to the Registrar for that purpose.

7. The deletion from the Register of entries made in error or through fraudulent misrepresentations or concealment of material facts or in circumstances not authorized by law.

8. The notification to the Registrar of changes in the names, addresses and prescribed particulars of registered stockbrokers.

SECOND SCHEDULE (Section 94)

MATTERS IN RESPECT OF WHICH COMMITTEE MAY MAKE RULES

1. The regulation of the hours of business of the Exchange.

2. The quorum of the Committee.

3. The procedure to be followed by the Committee in making rules.
4. The manner in which applications for registration are to be dealt with prior to the making of a recommendation in terms of subsection (1) of section thirty-one or a notification in terms of subsection (2) of that section.
5. The procedure to be followed by the Committee prior to the making of a notification in terms of subsection (1) of section thirty-five.
6. The manner in which the Committee is to exercise the powers conferred upon it by section thirty-six.
7. The procedure to be followed by the Committee in relation to the admission to, and the expulsion from, membership of the Exchange of associate members and non-broking members.
8. The fixing of the annual subscriptions and any other fees or charges payable to the Exchange by members of the Exchange.
9. The regulation of the issue and transfer of proprietary rights.
10. The rules of conduct to be observed by members of the Exchange, including the acts or omissions by a registered stockbroker which are to be treated as disgraceful conduct.
11. The holding of examinations, including the fees payable in connection therewith.
12. The location of the principal and other offices and premises of the Exchange.
13. The procedure to be followed at Committee meetings and Exchange meetings.
14. The special qualifications, if any, to be required of elected Committee members.
15. The regulation of the transaction of business on the Exchange, including the rights and obligations of registered stockbrokers in relation to Exchange transactions.
16. The designation of the persons who may sign deeds, transfers, contracts leases and any other instruments on behalf of the Exchange
17. The control of partnerships.
18. The rights and obligations of members of the Exchange generally.
19. The creation of different classes of membership of the Exchange and the rights and obligations of, and any special fees payable to the Exchange by, members of each such class.
20. The regulation of the establishment and maintenance of branch offices by registered stockbrokers.
21. The circumstances under which the Committee may prohibit members of the Exchange from doing business with a person who is not a member of the Exchange.
22. The duties of the Secretary and other employees of the Exchange.
23. The duties of employees of registered stockbrokers.
24. The employment by registered stockbrokers of authorized dealers and the fees payable to the Exchange by or in respect of authorized dealers.
25. The settlement of disputes between registered stockbrokers arising out of Exchange transactions.
26. Any matter, other than the matters set out in paragraphs 1 to 25, which—
  - (a) was dealt with by any rules and regulations made by the former Exchange which were in force immediately before the 18th January, 1974; and
  - (b) is not dealt with by, and is not in conflict with, this Act or regulations.

27. The control of companies registered in terms of section thirty-two.

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