

explained and, if it is both relevant and practical, the financial effects of such departure quantified.

8. The relevant accounting standards will be those current in relation to the last financial year reported on and, wherever possible, appropriate adjustments shall be made to show profits for all periods in accordance with such standard.

STATEMENT OF ADJUSTMENTS

- 9.—(1) In preparing the accountants' report, the reporting accountants as are in their opinion appropriate, for the purposes of the accountants' report, state therein that all adjustments considered necessary have been made, or where appropriate, that no adjustments were considered necessary. Where adjustments are made, a written statement the statement of adjustments, must be made available for public inspection, and should be signed by the reporting accountants.
- (2) The statement of adjustments shall set out, for each of the years reported on, each adjustment made, and be sufficiently detailed, so as to reconcile the figures in the accountants' report with the corresponding figures in the audited accounts and shall give the reasons therefor.

OTHER REPORTS

10. Where the reporting accountants refer to reports, confirmations or opinions of valuers, accountants or other experts, the names, addresses and professional qualifications of such other persons or firms shall be stated in the report. In any case, the prospectus will be required to include a statement that such other persons or firms have given and have not withdrawn their written consent to its issue with the inclusion of such references in the form and context in which they are included.

QUALIFIED REPORTS

11. Where the reporting accountants qualify their accountants' report, they shall refer to all material matters about which they have reservations. All reasons for the qualifications shall be given and its effect quantified if this is both relevant and practical. A qualified accountants' report in respect of a new applicant may be acceptable where the qualification does not relate to a matter of significance to investors but will not be acceptable where the qualification does relate to a matter of significance to investors.

Made this 4th day of May, 2015.

(FILE NO.EA/FSPU/1/1)

C. S. R. CHUKA
*Registrar of Financial
Institutions*

GOVERNMENT NOTICE No. 25

SECURITIES ACT, 2010

(No. 20 Of 2010)

SECURITIES (CLEARING AND SETTLEMENT) DIRECTIVE, 2015

ARRANGEMENT OF PARAGRAPHS

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PART II—OBJECTIVES

4. Objectives

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6. Deposit of share certificate and share transfer form
7. Advance payment
8. Transfer documents
9. Payment and delivery of share certificates
10. Submission of reports to the Registrar

PART IV—ENFORCEMENT

11. Monetary penalties
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PART V—REVOCATION

13. Revocation

IN EXERCISE of the powers conferred by section 67 (1) of the Securities Act, 2010, I, CHARLES S.R CHUKA, Registrar of Financial Institutions, issue the following Directive—

PART I—PRELIMINARY

- | | |
|----------------|---|
| Citation | 1. This Directive may be cited as the Securities (Clearing and Settlement) Directive, 2015. |
| Interpretation | <p>2. In this Directive, unless the context otherwise requires—</p> <p>“buying broker” means to a stock broker acting for a buyer;</p> <p>“selling broker” means to a stock broker acting for a seller ;and</p> <p>“institutional investors” means large organizations which make substantial investments on the stock exchange and include portfolio managers, pension funds, mutual funds, insurance companies, investment banks, commercial trusts, endowment funds, hedge funds, and finance companies.</p> |
| Application | 3. This Directive shall apply to brokers, dealers, institutional investors, securities market intermediaries, securities representatives and stock exchanges licensed under the Financial Services Act, 2010. |
- Act No. 26 of 2010

PART II—OBJECTIVES

4. The objectives of this Directive are to ensure that—

Objectives

(a) trading practices, clearing and settlement agents, comply with the provisions of the Act; and

(b) brokers, dealers, portfolio managers, securities market intermediaries, securities representatives and stock exchanges maintain professional standards.

PART III—GENERAL REQUIREMENTS

5. A stock exchange shall ensure that its members comply with this Directive.

Obligation of a stock exchange

6.—(1) A seller shall, in the case of a sell order, deposit a share certificate and a share transfer form with a selling broker at the time of placing the sell order.

Deposit of share certificate and share transfer form

(2) A selling broker shall ensure that a share certificate and a share transfer form are genuine.

7.—(1) An individual buyer shall, in the case of a buy order, make an advance payment of one hundred percent (100%) of an approximate value of trade to a buying broker at the time of placing the buy order.

Advance payment

(2) An institutional investor, shall, in the case of a buy order, make an undertaking to make payment to a buying broker on production of a contract note.

(3) An institutional investor shall make the payment under subparagraph (2), by electronic bank transfer immediately on receipt of a contract note from the buying broker.

(4) A buying broker shall deposit the funds received under subparagraph (1), in a separate bank account maintained for client monies or, in the case of foreign portfolio investors, arrange to have the funds deposited in a foreign currency denominated account maintained by the broker pending trade execution.

8.—(1) A selling broker shall deliver transfer documents to a transfer secretary, at the latest, on the day following the day of trade execution (T+1).

Transfer documents

(2) The transfer documents shall include a share certificate and a share transfer form.

(3) A share transfer form shall be signed by a seller:

Provided that a broker may sign the transfer form on behalf of their clients, where authorized to do so in writing by the client.

(4) Where a share transfer form is signed by a broker, it shall be accompanied by a copy of client authorization.

(5) A buying broker and selling broker shall, at the latest, issue contract notes to their clients on the day following the day of trade execution (T+1).

(6) A transfer secretary shall, after a transfer, send a new share certificate, in the name of the buyer, to the selling broker by the third day following the day of trade execution (T+3) and where applicable, the transfer shall be accompanied by the share certificate for the balance, in the name of the seller.

Payment and
delivery of
share
certificates

9.—(1) A selling broker shall, at the latest, deliver a share certificate to a buying broker by the fourth day following the day of trade execution (T+4).

(2) A buying broker shall be responsible for making good the settlement of all securities transactions even where the buyer defaults in making payments.

(3) A buying broker shall, at the latest, pay the selling broker by the fourth day following the day of trade execution (T+4).

(4) A buying broker shall, at the latest, produce a new share certificate in the name of the buyer to a licensed stock exchange as evidence of completion of the transaction by the fifth day following the day of trade execution (T+5).

(5) The buying broker shall, at the latest, send the new share certificate to the buyer by the fifth day following the day of trade execution (T+5).

(6) The selling broker shall, at the latest, pay the seller by the fifth day following the day of trade execution (T+5).

(7) A payment under this paragraph shall be made in the name of the bearer of a share certificate.

(8) All third party payments by stock brokers are prohibited except where letters of administration are granted by a court or where a valid power of attorney is given by the bearer of the share certificate.

Submission of
reports to the
Registrar

10. All brokers, shall on a monthly basis, report to the Registrar, a summary of all trades indicating trade date and payment dates of all executed transactions.

PART IV—ENFORCEMENT

Monetary
penalties

11.—(1) A broker who violates provisions of this Directive shall pay to the Registrar, a fine of seventy five percent (75%) of commission earned beyond the fourth day following the day of trade execution (T+4).

(2) The Registrar shall impose a penalty of up to ten million Kwacha (K10,000,00.00 million) for any other violations of this Directive.

(3) The penalties in subparagraphs (1) and (2) shall be paid through a bank certified cheque payable to the Reserve Bank of Malawi within ten working days after notification from the stock exchange or Registrar.

(4) A stock exchange shall immediately remit to the Registrar penalties collected in subparagraph (1).

Administrative
penalties
Act No. 26 of
2010

12. In addition to the monetary penalties in paragraph 10, the Registrar may impose directions or administrative penalties as provided for under the Act and the Financial Services Act, 2010.

PART V.—REVOCATION

13. The Securities (Clearing and Settlement) Directive, 2011 is hereby
revoked. Revocation
G.N. 57 of

Made this 4th day of May, 2015.

C. S. R. CHUKA
*Registrar of Financial
Institutions*

(FILE NO.EA/FSPU/1/1)

GOVERNMENT NOTICE No .26

FINANCIAL SERVICES ACT, 2010

(ACT NO 26 OF 2010)

FINANCIAL SERVICES (ESTABLISHMENT AND OPERATIONS OF BROKERS
AND DEALERS) DIRECTIVE, 2015

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