

This reprint of this Statutory Instrument incorporates all amendments, if any, made before 25 November 2006 and in force at 1 July 2001.

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Legislative Counsel
Dated 25 November 2006

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. 4 of 1999.

Securities Regulation 1999

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Securities Regulation 1999

MADE under the *Securities Act 1997* to come into effect on 11 October 1999.

Dated 200 .

PART I. – PRELIMINARY.

1. INTERPRETATION.

(1) In this Regulation, unless the contrary intention appears—

“accounting period”, in relation to an issuing group, borrowing group, group, body corporate, business or scheme, means a year in respect of which the financial statements thereof or relating thereto have been made up, and where by reason of any alteration of the financial year of the group, body corporate, business or scheme, the financial statements have been made up for a period greater or lesser than a year, that greater or lesser period shall be deemed to be an accounting period;

“borrowing body corporate” in relation to an offer of debt securities, means the body corporate which has issued, or will issue, the debt securities which are the subject of the offer;

“borrowing group”, in relation to an offer of debt securities, means the borrowing body corporate and all its guaranteeing subsidiaries at the date of the registered prospectus;

“complete prospectus” means a prospectus which complies with Section 7;

“concise prospectus” means a prospectus which complies with Section 8;

“equity method of accounting” means a method of accounting relating to an investment by a person in a body corporate carried out in accordance with generally accepted accounting practice;

“generally accepted accounting practice” has the same meaning as in Section 172 of the *Companies Act 1997*;

“group” means—

- (a) in relation to an offer of equity securities, the issuer, and all former subsidiaries of the issuer in respect of the periods during which they were such subsidiaries, and all present subsidiaries of the issuer in respect of the periods since they became such subsidiaries; and
- (b) in relation to an offer of debt securities, the issuer and all guaranteeing subsidiaries in respect of the periods since they became such subsidiaries;

“guaranteeing subsidiary”, in relation to an offer of debt securities, means a subsidiary of the issuer that—

- (a) is unconditionally liable, whether or not jointly or severally with the issuer or any other person, to repay the securities; or
- (b) is liable to repay the securities subject only to the condition that the issuer or that other person has failed to do so;

“holding company” has the same meaning in relation to any body corporate as in Section 5 of the *Companies Act 1997*;

“issuing body corporate” in relation to an offer of equity securities, means the body corporate which has issued, or will issue, the equity securities which are the subject of the offer;

“issuing group”, in relation to an offer of equity securities, means the issuing body corporate, and all its subsidiaries at the date of the registered prospectus;

“investment statement” means a prospectus which complies with Section 9 and contains or refers to one or more offers of securities to the public, and states that it is an investment statement;

“manager” in relation to a unit trust, means—

- (a) a person that is vested with the powers of management of the investments and other property that are subject to the trust deed governing the unit trust; or
- (b) a person that is responsible for the investment of some or all of the funds, or the administration of, the unit trust; or
- (c) a person that has the function, whether as principal or by an agent, of issuing or offering interests in the unit trust to the public for subscription or purchase, or inviting the public to subscribe for or purchase such interests, or both of those functions; or

(d) where the functions referred to in Paragraphs (a), (b) and (c) are performed by the unit trustee, that person;

“nominated person” in relation to a unit trustee, means a person nominated by a unit trustee in writing as a person in which any of the investments or other property of the unit trust are vested;

“offer” includes an offer for the allotment of, or subscription for, securities;

“overseas company” has the same meaning as in Section 2(1) of the *Companies Act 1997*;

“overseas registered prospectus” means a prospectus or equivalent disclosure document, by whatever name, relating to an offer for the allotment of securities in an overseas company, that complies with Section 10 and has been—

(a) registered or approved by a person or body in any other country with functions relating to prospectuses corresponding to those of the Registrar under the Act; or

(b) issued or prepared pursuant to, and in compliance with, a law in any other country relating to the offer or allotment of securities, and is not required by that law to be registered or approved by a person or body in any other country with functions relating to prospectuses corresponding to those of the Registrar under the Act;

“pathfinder document” means a preliminary or draft prospectus which is only provided to a person referred to in Section 51(2)(b) or (d), or a person who is potentially or reasonably likely to be such a person;

“person whose knowledge is relevant” means—

(a) the issuer; and

(b) if the issuer is a body corporate, a director of the body corporate; and

(c) a proposed director of the body corporate whose securities will be allotted under the offer; and

(d) a person named in the registered prospectus as an underwriter of the offer; and

(e) a person named in the registered prospectus as a stockbroker to the offer if they participate in any way in the preparation of the registered prospectus; and

(f) an expert named in the registered prospectus with their consent as having made a statement—

(i) that is included in the registered prospectus; or

(ii) on which a statement made in the registered prospectus is based; and

- (g) a person named in the registered prospectus with their consent as having performed a particular professional or advisory function;

“profile statement” means a document which complies with Section 17;

“subsidiary” has the same meaning as in Section 5 of the *Companies Act 1997*;

“the Act” means the *Securities Act 1997*;

“trust deed” means a trust deed that has been registered under Section 70 of the Act;

“unit holder” means any person who is the lawful holder of an interest in a unit trust and includes a purchaser of, or subscriber for, such an interest;

“unit trustee” includes–

- (a) the trustee in which is vested any money, investments and other property that are for the time being subject to the trust deed governing the unit trust; and
- (b) where any money, investments and other property that are for the time being subject to the trust deed governing the unit trust are vested in a nominated person, the trustee that appointed the nominated person; and
- (c) where any money, investments and other property that are for the time being subject to the trust deed governing the unit trust are vested in a nominee of a nominated person, the trustee that appointed the nominated person; and
- (d) where the person referred to in Paragraphs (a), (b) or (c) also performs the functions of a manager, that person.

(2) For the purposes of Section 2(1) of the Act–

- (a) Paragraph (a) of the definition of “advertisement” and the definition of “prospectus”, shall also include an offer of securities, other than equity securities, debt securities or units; and
- (b) the definition of “issuer” shall also mean in relation to–
 - (i) securities, other than equity securities, debt securities or units; or
 - (ii) an advertisement, prospectus or registered prospectus that relates to securities, other than equity securities, debt securities or units; or
 - (iii) a trust deed that relates to securities, other than equity securities, debt securities or units,

the person on whose behalf any money paid in consideration of the allotment of the securities is received.

(3) Where any term or expression used in this Regulation is not defined in this Regulation but is defined in the Act, that term or expression shall in this Regulation have the same meaning as in the Act, unless the contrary intention appears.

(4) Where securities are paid up, whether in whole or in part, or issued as part of an arrangement involving—

- (a) the transfer of property or the provision of services to an issuer, or in the case of units in a unit trust, to the unit trust, manager or trustee; and
- (b) the exchange of cash or cheques or other negotiable instruments,

whether or not the paying up or issue, transfer or provision and exchange take place at the same time, the securities shall, for the purposes of this Regulation and to the extent of the value of the property or services, be deemed to be paid up or issued in consideration of the transfer of the property or the provision of the services, and accordingly shall be deemed to be paid up, or issued as paid up, either fully or partly, as the case may be, otherwise than in cash.

PART II. – FIDELITY FUNDS.

2. NOTICE CALLING FOR CLAIMS AGAINST FIDELITY FUND.

(1) Every notice under Section 41(1) of the Act shall be in the form prescribed in Schedule 4.

(2) Every notice under Section 42(4) of the Act shall be in the form prescribed in Schedule 4.

PART III. – PROSPECTUSES.***Division 1.******Content of Registered Prospectuses.*****3. TYPES OF REGISTERED PROSPECTUSES.**

(1) Unless otherwise specified, the following shall be registrable as a prospectus under Section 66 of the Act:–

- (a) a complete prospectus that complies with Section 7;
- (b) a concise prospectus that complies with Section 8;
- (c) an investment statement that complies with Section 9;
- (d) an overseas registered prospectus that complies with Section 10.

(2) Notwithstanding Subsection (1), an offer for the allotment of units in a unit trust shall only be registrable if it is a complete prospectus that complies with Section 7(3).

(3) An offer for the allotment of securities in a company made pursuant to an arrangement, amalgamation or compromise which is approved under Part XIV, XV or XVI of the *Companies Act 1997* shall, for the purposes of the Act, be deemed to be an offer made in a registered prospectus.

4. MATTERS TO BE CONTAINED IN ALL REGISTERED PROSPECTUSES.

(1) A registered prospectus, other than an investment statement, shall contain all material information that would, or would be reasonably likely to, influence the decision of an investor in deciding whether or not to subscribe for, or buy securities, and it would be reasonable to expect that the information would be contained in the prospectus.

(2) For the purposes of Subsection (1), information in a document or part of a document referred to in a concise prospectus registrable under Section 3(1)(b) is deemed to be contained in the prospectus.

(3) For the purposes of determining what is material information regard shall be had to–

- (a) the nature of the securities and the issuer; and
- (b) the matters that likely investors and their professional advisers may reasonably be expected to know; and
- (c) whether the registered prospectus would be false, misleading or likely to deceive if the information was not included in the registered prospectus.

(4) For the purposes of determining what information would reasonably be expected to be contained in a registered prospectus regard shall be had to the

information that a person whose knowledge is relevant actually knows or ought reasonably to have obtained by making enquiries.

(5) A registered prospectus shall state that—

- (a) a copy of the prospectus has been registered by the Registrar, and the date of the registration of the prospectus; and
- (b) the Registrar and the Securities Commission take no responsibility for the content of the registered prospectus.

(6) A registered prospectus shall not contain any information, sound, image, statement or other matter that is likely to deceive, mislead, or confuse with regard to any particular that is material to the offer of securities contained in, or referred to in the registered prospectus.

(7) Where this Regulation requires any information, statement, certificate, or other matter relating to an issuing group, borrowing group, group, body corporate, business or unit trust for a stated period the information, statement, certificate, or other matter need only relate to that part of the stated period during which a part of the group, body corporate, business, or unit trust was in existence.

(8) A registered prospectus must set out the nature and extent of the interests, if any, that each person referred to in Subsection (11) holds, or held at any time during the last two years, in—

- (a) the formation or promotion of the issuer; or
- (b) property acquired or proposed to be acquired by the issuer in connection with—
 - (i) its formation or promotion; or
 - (ii) the offer for the allotment of the securities; or
- (c) the offer for the allotment of the securities.

(9) A registered prospectus must set out the amount that anyone has paid or agreed to pay, or the nature and value of any benefit anyone has given or agreed to give—

- (a) to a director, or proposed director, to induce them to become, or to qualify as, a director of the issuer; and
- (b) for services provided by a person referred to in Subsection (11) in connection with—
 - (i) the formation or promotion of the issuer; or
 - (ii) the offer for the allotment of the securities.

(10) For the purposes of Subsection (9) it is not sufficient merely to state in the registered prospectus that a person has been paid or will be paid normal, usual, standard or industry accepted fees or other benefits.

(11) For the purposes of Subsections (8) and (9), the persons in relation to whom disclosures must be made are—

- (a) any directors and proposed directors of the issuer; and
- (b) a person named in the registered prospectus as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of the registered prospectus; and
- (c) a promoter of the issuer; and
- (d) a stockbroker or underwriter, but not a sub-underwriter, to the allotment of securities.

(12) A registered prospectus must state that no securities will be issued on the basis of the prospectus after the expiry date specified in the registered prospectus, which shall not be later than the date specified in Section 59(1)(e) of the Act.

(13) A registered prospectus shall be in type of a size not less than 9 point times.

5. VALUATIONS AND FORECASTS IN A REGISTERED PROSPECTUS.

(1) Where a valuation is included or referred to in a registered prospectus, the registered prospectus shall state—

- (a) the method of valuation; and
- (b) the date of the valuation; and
- (c) the identity and qualifications of the valuer.

(2) Where a valuation to which Subsection (2) applies consists only of the expression of an opinion by the directors, the registered prospectus shall so state.

(3) Where forecast financial information or a statement concerning a future matter is included in a registered prospectus, the prospectus shall contain a statement of the principal assumptions on which the forecast financial information or statement is based.

6. INSPECTION AND COPYING OF DOCUMENTS.

(1) A true copy of any document, or part of a document, referred to in a registered prospectus, but not included in or attached to the registered prospectus shall be kept, from the date of registration of the prospectus until at least three months after the date of expiry of the registered prospectus, at the registered office of the issuer in the country, or if the issuer does not have a registered office in the country, at a readily identifiable and accessible address in the country.

(2) The documents, or parts of documents, referred to in Subsection (1) shall be available for inspection by any person without fee during normal business hours, and any person may obtain a copy of any such document, or part of a document—

- (a) which is referred to in a concise prospectus, free of charge; or
- (b) in any other case, upon payment of a reasonable fee prescribed by the issuer, or where the issuer of securities does not require the payment of a fee, free of charge.

(3) The documents, or parts of documents, referred to in Subsection (1), and the address at which they are kept must be specified in the registered prospectus.

(4) Where any document, or part of a document, referred to in Subsection (1), is wholly or partly in a language other than English, a correct translation thereof in English must be kept at the address referred to in Subsection (1), and available for inspection and copying under this section.

(5) A document, or part of a document, referred to in Subsection (1) is taken to be included in, and form part of, the registered prospectus.

(6) This Section, Clause 10 of Schedule 1 and Clause 12 of Schedule 3 may be waived or modified by the Securities Commission, at its discretion, and on such terms and conditions as it thinks fit, in relation to documents or information which are confidential or contain or relate to trade or business secrets.

7. COMPLETE PROSPECTUSES.

(1) In addition to the requirements of Sections 4, 5 and 6, every complete prospectus that relates to an offer for the allotment of equity securities shall contain all of the information, documents, statements, certificates, and other matters specified in Schedule 1 that are applicable.

(2) In addition to the requirements of Sections 4, 5 and 6, every complete prospectus that relates to an offer for the allotment of debt securities shall contain all of the information, documents, statements, certificates, and other matters specified in—

- (a) Schedule 1 that are applicable, with such modifications as may be necessary, as if it were an offer for the allotment of equity securities; and
- (b) Schedule 2.

(3) In addition to the requirements of Sections 4, 5 and 6, every registered prospectus that relates to an offer for the allotment of units in a unit trust shall contain all of the information, documents, statements, certificates, and other matters specified in Schedule 3 that are applicable.

(4) For the avoidance of doubt, a prospectus that relates to an offer of securities, other than equity securities, debt securities or units in a unit trust, is registrable as a complete prospectus.

8. CONCISE PROSPECTUSES.

In addition to the requirements of Sections 4, 5 and 6, a concise prospectus is registrable as a registered prospectus where an offer for the allotment of securities is made by an issuer in a registered prospectus, which is clearly identified as a concise prospectus, and refers to information contained in documents or parts of documents not included in or attached to the registered prospectus, and the reference—

- (a) clearly identifies and describes the documents or parts of documents in which the information is contained; and
- (b) sets out a person's right to inspect or obtain a copy of the documents, or parts of documents, under Section 6; and
- (c) states whether the information is primarily of interest to professional analysts, advisers or investors.

9. INVESTMENT STATEMENTS.

(1) In addition to the requirements of Sections 4, 5 and 6, and subject to Subsection (3), an investment statement is registrable as a registered prospectus where—

- (a) the amount to be raised by an offer for the allotment of securities by an issuer under the investment statement, when added to all amounts previously raised by—
 - (i) the issuer; or
 - (ii) a related corporation, as defined in Section 2(3) of the *Companies Act 1997*; or
 - (iii) an entity controlled by—
 - (A) a person who controls the issuer; or
 - (B) an associate of that person,

under an investment statement does not exceed K500,000.00; or

- (b) the investment statement relates only to—
 - (i) an offer for the allotment of fully paid equity securities made by the issuer of the securities only to one of the following classes:—
 - (A) persons who already hold equity securities of the issuer;
 - (B) employees or directors, or both, of the issuer;
 - (C) trade suppliers or creditors of the issuer; or
 - (ii) an offer for the allotment of debt securities, not being convertible securities or other securities that may be converted into equity securities, made by the issuer of the securities to persons who already hold equity securities, convertible securities or debt securities of the issuer, whether or not the offer is renounceable in favour of any other person; and
 - (iii) the issuer of the securities is a company, as defined in Section 2(1) of the *Companies Act 1997*, or a body corporate incorporated in the country; and
 - (iv) in the case of an offer for the allotment of debt securities guaranteed by guaranteeing subsidiaries of the issuer, any financial statements include group financial statements within

the meaning of Section 178 of the *Companies Act 1997* that relate to the borrowing group.

(2) In determining an amount raised by any person for the purposes of Subsection (1)(a), the following amounts shall be included:–

- (a) the amount payable for the securities at the time when they are issued;
- (b) where the securities are issued partly paid, any amount payable at a future time if a call is made;
- (c) where the securities are options, any amount payable on the exercise of the options;
- (d) where the securities carry a right to convert the securities into other securities, any amount payable on the exercise of that right.

(3) The Registrar may at his discretion determine in writing that–

- (a) for the purposes of Subsection 1 (a), an amount raised by any person is an amount raised by the issuer; or
- (b) notwithstanding that an offer of securities meets the requirements of Subsection (1), an investment statement is not registrable as a registered prospectus, and he may require a complete prospectus, concise prospectus or an overseas registered prospectus to be submitted for registration, in substitution for, or in addition to, the investment statement,

and, subject to Section 94 of the Act, every determination of the Registrar under this subsection shall be final and binding.

(4) An investment statement shall–

- (a) identify the issuer and the nature of the securities; and
- (b) describe the body's business; and
- (c) describe what the funds raised by the offers are to be used for; and
- (d) state the nature of the risks involved in investing in the securities; and
- (e) give details of all amounts payable in respect of the securities, including any amounts payable by way of fee, commission or charge; and
- (f) state that it is not a complete prospectus and that it has a lower level of disclosure than a complete prospectus; and
- (g) state that investors should obtain professional investment advice before accepting the offer; and
- (h) include a copy of the most recent financial statements of the issuer which–
 - (i) comply with generally accepted accounting practice; and
 - (ii) have been audited by a qualified auditor; and

- (iii) are for a 12 month period and have a balance date that is within the last six months before the securities are first offered under the investment statement.

(5) Unless otherwise provided, nothing in this section limits the information, statements or other matters that may be contained in an investment statement.

10. OVERSEAS REGISTERED PROSPECTUSES.

(1) In addition to the requirements of Sections 4, 5 and 6, an overseas registered prospectus is registrable as a registered prospectus where—

- (a) it complies with the standards, if any, approved by the International Organization of Securities Commissions for cross-border or multi-jurisdictional offerings of securities; and
- (b) the issuer of the securities offered in the registered prospectus is incorporated in a country which the Securities Commission has declared by notice in the National Gazette to be a country for the purposes of this section; and
- (c) it is in English and where any document referred to in the overseas registered prospectus is wholly or partly in a language other than English, a correct translation thereof in English shall be available for inspection and copying in accordance with Section 6.

(2) The Securities Commission may at its discretion determine in writing that, notwithstanding that an offer of securities meets the requirements of Subsection (1), an overseas registered prospectus is not registrable as a registered prospectus, and it may require a complete prospectus, concise prospectus or an investment statement to be submitted for registration, in substitution for, or in addition to, the overseas registered prospectus.

(3) Subject to Section 94 of the Act, every determination of the Securities Commission under Subsection (2) shall be final and binding.

11. RESTRICTIONS IMPOSED BY PART V ON CONTENT OF REGISTERED PROSPECTUSES.

Nothing in this Part limits the provisions of Part V.

Division 2.

Registration of Prospectuses.

12. DOCUMENTS TO BE ATTACHED TO PROSPECTUS DELIVERED FOR REGISTRATION.

Every prospectus delivered to the Registrar for registration under the Act shall—

- (a) be an original document;

- (b) have endorsed thereon or attached thereto, or be accompanied by, a true copy of any document, or part of a document, referred to in Section 6, unless this requirement is waived by the Registrar in relation all or any such document, or part of a document; and
- (c) be accompanied by the prescribed fee.

PART IV. – ADVERTISEMENTS.**13. MISLEADING INFORMATION.**

No advertisement shall contain any information, sound, image, statement or other matter that is likely to deceive, mislead, or confuse with regard to any particular that is material to the offer of securities contained in, or referred to in, the advertisement.

14. ADVERTISEMENTS TO BE CONSISTENT WITH REGISTERED PROSPECTUS.

No advertisement shall contain any information, sound, image, or other matter that is inconsistent with any registered prospectus referred to in the advertisement.

15. RESTRICTIONS ON DISTRIBUTION OF CERTAIN ADVERTISEMENTS.

(1) In addition to the requirements of Section 60 of the Act, an authorized advertisement shall not be published or distributed to the public unless—

- (a) it contains no information or matter other than any or all of the following:—
 - (i) the name, business address, postal address, telephone number, facsimile number, telex number or other contact address or number of the issuer and the logo customarily used by the issuer:
 - (ii) a brief description of the securities being offered and any rights or privileges attaching to them:
 - (iii) brief details of the material terms of the offer:
 - (iv) a statement of the rate or rates of interest, if any, that may be earned by holding the securities being offered:
 - (v) the names of the principal stockbroker to, and the underwriter of, the offer:
 - (vi) a statement that the complete details, terms and conditions of the offer are contained in the registered prospectus: or
- (b) it is contained in a profile statement.

(2) Every person, other than the issuer or a principal officer of the issuer, who publishes or distributes an advertisement in contravention of Subsection (1) commits an offence, but it shall be a defence to a charge under this subsection where the defendant proves that, at the time the advertisement was so distributed—

- (a) he was unaware that it did not comply with Subsection (1); and
- (b) in the circumstances he could not reasonably have been expected to take steps to ensure that it complied with the requirements of Subsection (1).

(3) Where an advertisement is published or distributed to the public in contravention of Subsection (1), the issuer and every principal officer of the issuer commits an offence, but it shall be a defence to a charge under this subsection where—

- (a) the defendant proves that the advertisement was distributed without their knowledge, or where the defendant is a principal officer, against his advice; or
- (b) the issuer or the principal officer, as the case may be, took all reasonable and proper steps to ensure that the requirements of Subsection (1) would be complied with; or
- (c) in the case where the defendant is a principal officer—
 - (i) he took all reasonable and proper steps to ensure that the requirements of Subsection (1) were complied with; or
 - (ii) in the circumstances he could not reasonably have been expected to take steps to ensure that the requirements of Subsection (1) were complied with.

(4) Every person who commits an offence against this section is liable on conviction to a fine not exceeding K5,000.00 for every day that a breach occurs.

16. STATEMENTS ETC., DEEMED NOT TO BE ADVERTISING.

The following shall be deemed not to be an advertisement or offer of securities to the public for the purposes of the Act or this Regulation:—

- (a) a statement or publicity on behalf of, or relating to, a body corporate that—
 - (i) forms part of the normal advertising of the body corporate's products or services and is genuinely directed at maintaining its existing customers, or attracting new customers, for those products or services; and
 - (ii) does not communicate information that materially deals with the affairs of the body corporate; and
 - (iii) is not reasonably likely to encourage investment decisions to be made, or induce people to apply for the allotment of securities, on the basis of the statement or publicity rather than on the basis of information contained in a registered prospectus; and
 - (iv) does not refer, whether directly or indirectly, to an offer for the allotment of, or a registered prospectus relating to, securities in the body corporate;
- (b) a news report or genuine media comment in a newspaper, periodical, or public information service consisting of transmissions, sound recordings, video recordings or data recordings, other than one whose sole or

principal purpose is to provide advice or reports concerning securities, which relates to—

- (i) a registered prospectus or information contained in a registered prospectus; or
- (ii) a statement or report referred to in Section 51(7) of the Act;
- (iii) a statement or publicity referred to in Paragraph (a),

provided no person provides any consideration or other benefit for the news report or media comment;

- (c) a pathfinder document.

17. REQUIREMENTS FOR PROFILE STATEMENTS.

(1) A profile statement for an offer for the allotment of securities may be prepared in addition to a registered prospectus for any securities, or class or kind of securities that is approved in writing by the Securities Commission, and submitted to the Registrar for registration.

(2) A profile statement shall—

- (a) be in writing in English and be dated; and
- (b) identify the issuer, the body corporate which has issued, or will issue the securities, where applicable, and the nature of the securities; and
- (c) state the nature of the risks involved in investing in the securities; and
- (d) give details of all amounts payable in respect of the securities, including any amounts by way of fee, commission or charge; and
- (e) state that the person given the profile statement is entitled to a copy of the registered prospectus free of charge, and the address in the country at which a copy can be obtained, which shall at least include the address required for the purposes of Section 6(1); and
- (f) state the date of the registered prospectus to which the profile statement relates; and
- (g) state the date, which shall be the same as the date specified in the registered prospectus pursuant to Section 4(12), after which no securities will be issued on the basis of the profile statement or the registered prospectus; and
- (h) state that—
 - (i) a copy of the profile statement has been registered by the Registrar; and
 - (ii) the Registrar and the Securities Commission take no responsibility for the content of the profile statement; and
- (i) contain an application form, which shall be deemed to be issued with the registered prospectus, and instructions for completing the

application form, if any, which are identical to that contained in the registered prospectus; and

- (j) state that it is not a registered prospectus and that full disclosure of all matters relating to the securities and the offer is contained in the registered prospectus; and
- (k) when submitted to the Registrar for registration, be accompanied by the prescribed fee.

(3) Unless otherwise provided, nothing in this section limits the information, statements or other matters that may be contained in a profile statement, provided it is not inconsistent with the registered prospectus.

(4) A profile statement shall comply with the Act and this Regulation and shall be submitted to the Registrar for registration no later than the date on which the registered prospectus to which it relates is submitted to the Registrar for registration.

(5) A person who is allotted securities as a result of an offer for the allotment of securities that was accompanied by a profile statement is taken to have applied for the allotment of the securities in reliance on both the profile statement and the registered prospectus.

18. UNSECURED AND SECURED SECURITIES.

No advertisement shall refer to any debt securities, other than securities the issuer of which is the State, without also stating either that the securities are unsecured or the nature and ranking in point of security of the securities.

19. RESTRICTIONS IMPOSED BY PART V ON CONTENT OF ADVERTISEMENTS.

Nothing in this Part limits the provisions of Part V.

**PART V. – RESTRICTIONS ON CONTENT OF REGISTERED
PROSPECTUSES AND ADVERTISEMENTS.**

20. SHAREHOLDERS' NAMES.

No registered prospectus or advertisement shall state or imply that a person is, or intends to become, a shareholder of the issuer of the securities to which it relates without also stating whether or not the securities are guaranteed by that person.

21. STATEMENTS AS TO SAFETY.

No registered prospectus or advertisement shall state that investment in the securities to which it relates is safe or free from risk.

22. INTEREST RATES AND TAXATION OF INTEREST.

(1) No registered prospectus or advertisement shall state the rate or rates of interest that may be earned by holding securities unless the registered prospectus or advertisement states any minimum amount or amounts of the securities that would have to be held, and any minimum period or periods during which the securities would have to be held in order to earn that rate or those rates.

(2) No advertisement shall—

(a) state a rate of interest payable in respect of a security that has been adjusted for the purposes of taking into account the incidence of taxation of the interest; or

(b) otherwise refer to the taxation of interest earned by holding securities,

except that, subject to Sections 13 and 14, an advertisement may include a statement to the effect that in certain circumstances there may be tax advantages in holding the securities referred to in the advertisement and that where a registered prospectus is referred to in the advertisement, there is set out in the registered prospectus a full statement of those advantages.

(3) No registered prospectus shall refer to any liability for taxation of interest payable in respect of a security unless the registered prospectus makes it clear that the liability is that prescribed by current laws.

23. MORTGAGE DEBENTURES.

No registered prospectus or advertisement shall refer to securities as mortgage debentures unless—

(a) the securities are secured by a first mortgage given to a trustee over land vested in a member of the borrowing group; and

(b) the mortgage has been registered, or is a registrable mortgage that has been submitted for registration, in accordance with the law in force

relating to the registration of mortgages of land in the place where the land is situated; and

- (c) the registered prospectus or advertisement states and describes the percentage arrived at by dividing the aggregate amount of the securities, and all other liabilities, if any, secured by the mortgage and ranking equally in point of security with the liability to repay the securities, by the amount of the valuation referred to in Paragraph (d); and
- (d) there is included in the registered prospectus relating to the securities, a copy of a written valuation of the interest of the member of the borrowing group in the land made not more than 12 months before the date of the registered prospectus by a valuer registered under the *Valuation Act 1967*.

24. LISTING SECURITIES ON A STOCK EXCHANGE.

(1) No registered prospectus or advertisement for an offer for the allotment of securities shall state or imply that application has been made, or will be made, for the securities to be quoted on a stock exchange, whether in Papua New Guinea or elsewhere, unless the registered prospectus or advertisement states that—

- (a) the securities have been admitted to quotation on that stock exchange; or
- (b) an application for admission of the securities to quotation on that stock exchange has already been made; or
- (c) an application for admission of the securities to quotation on that stock exchange will be made to that stock exchange within seven days after the date of the registered prospectus.

(2) Where a registered prospectus states or implies that the securities are to be quoted on a stock exchange, whether in Papua New Guinea or elsewhere, the person making the offer must not issue or transfer any of the securities until the securities are admitted to quotation on that stock exchange.

(3) Where disclosure is made in accordance with Subsection (1), and permission for quotation of the securities on all stock exchanges referred to is not granted before the end of six weeks after the date of the registered prospectus, any issue or transfer of securities, whenever made, on an application pursuant to the registered prospectus is void and any subscriptions received by the issuer pursuant to the registered prospectus shall be repaid to all subscribers without interest.

(4) Where any subscriptions are not repaid under Subsection (3) within two months after the date on which the subscriptions were received by or on behalf of the issuer, the issuer and all the directors of the issuer shall be jointly and severally liable to repay the subscriptions, together with simple interest at the rate of 10% per annum from the date on which the subscriptions were received by or on behalf of the issuer, but a director shall not be liable where he proves that the default in the

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repayment of the subscriptions was not due to any misconduct or negligence on his part.

PART VI. – UNIT TRUSTS.

25. UNIT TRUSTEE AND MANAGER.

(1) A unit trust shall have a unit trustee and may, but is not required to, have a manager which is not also the unit trustee and shall be appointed by the unit trustee.

(2) Every unit trustee and manager shall be a body corporate incorporated or registered in the country.

(3) A unit trustee shall have the following duties:–

- (a) to ensure that the affairs of the unit trust are conducted in a proper and efficient manner:
- (b) to use due care, diligence and skill that a reasonable unit trustee would exercise in the same circumstances, in the exercise and performance of its functions, powers and duties:
- (c) to account to the unit holders of the unit trust for all money that it receives on behalf of the unit trust:
- (d) not to pay out or invest or apply any money belonging to the unit trust for any purpose that is not directed by or authorized in the trust deed:
- (e) to supply to the unit holders of the unit trust, in general meetings, such oral or written information relating to the affairs of the unit trust as a unit holder has given it reasonable notice to supply:
- (f) to act honestly:
- (g) to act in the best interests of the unit holders, and where there is a conflict between the interests of the unit holders and its own interests, to give priority to the interests of the unit holders:
- (h) not to make use of information acquired in the exercise of its functions, powers and duties as unit trustee to gain an improper advantage for itself or another person, or to cause detriment to unit holders:
- (i) to ensure that the investments and other property of the unit trust are clearly identified as those of the unit trust, and that they are held separately from property of the unit trustee or any manager, and any investments or other property of any other unit trust or scheme;
- (j) to ensure compliance with the Act, this Regulation, the trust deed and the terms of the offer of the units, and, except where it is satisfied that the breach will not have a materially adverse effect on the interests of the unit holders, to–
 - (i) report promptly any breaches by any person to the Securities Commission; and
 - (ii) do all things as it is empowered to do to cause any breach to be remedied.

(4) The unit trustee shall ensure that an account or accounts are kept in the name of the unit trust at such bank or banks as it may from time to time decide, and the unit trustee shall ensure that all money received on behalf of the unit trust is paid into such a bank account as soon as practicable.

(5) Notwithstanding anything to the contrary in the trust deed governing the unit trust, a unit trustee shall not be discharged or retire from office until another trustee has been appointed to and assumed that office in accordance with the provisions of the trust deed and the Act.

(6) Where a unit trust has a manager which is not the unit trustee—

- (a) the manager shall have the same liability for its acts and omissions in the exercise of its powers and functions as manager of the unit trust as it would if it exercised those powers and functions as a unit trustee; and
- (b) the unit trustee shall be jointly and severally liable for any act or omission of that manager.

26. PROPERTY ETC., VESTED IN NOMINATED PERSONS.

(1) The investments and other property that are subject to the trusts governing a unit trust must be vested in the unit trustee or, if authorized by the trust deed, in a nominated person of the unit trustee.

(2) Upon the nomination by it of a person in accordance with Subsection (1), the unit trustee, in addition to its own obligations as trustee in relation to the unit trust, is jointly and severally liable with the nominated person for any acts or omissions of the nominated person in relation to the unit trust.

27. AUDITED ACCOUNTS.

(1) A unit trustee shall send annually to every unit holder a copy of the financial statements of the unit trust audited by a qualified auditor, together with—

- (a) a summary of any amendments of the trust deed that have been made since the date of the previous financial statements; and
- (b) a summary of purchases and sales of property under the unit trust; and
- (c) a list of all the investments and property of the unit trust, and their value, as at the end of the period to which the accounts relate.

(2) In this section, “financial statements” has the same meaning as in Section 177 of the *Companies Act 1997* with such modifications as may be necessary, and must comply with generally accepted accounting practice.

28. IMPLIED PROVISIONS IN TRUST DEEDS.

(1) The following provisions shall be implied in every trust deed relating to a unit trust, notwithstanding anything to the contrary in the deed:—

- (a) that the unit trustee and manager, if any, shall use their best endeavours to ensure that the unit trust is carried on in a proper and efficient manner:
- (b) where the unit trustee is not also the manager, that the manager, if any, shall—
 - (i) upon demand, make available to the unit trustee for inspection all of the manager's books, documents and records relating to the unit trust; and
 - (ii) provide to the unit trustee such information as the unit trustee requires with respect to all matters relating to the unit trust or to any business of the manager, or to any property of the manager, whether acquired before or after the date of the trust deed, or otherwise relating to the affairs of the manager;
- (c) where the unit trustee is not also the manager, that the unit trustee shall not act on any direction of the manager, if any, to acquire any property for the unit trust or dispose of any property of the unit trust where, in the unit trustee's opinion conveyed in writing to the manager, the proposed acquisition or disposal is manifestly not in the interests of the unit holders, and the trustee shall not be liable to the unit holders or to the manager for so refusing to act on any direction of the manager:
- (d) that the manager shall upon request in writing by the unit trustee, where the unit trustee is not also the manager, or of 10% in number of the unit holders, or of a unit holder or unit holders holding, at the date of the receipt of the request by the manager, not less than 10% of the value of the interests in the unit trust then held by unit holders, call a meeting of unit holders to be held in accordance with Section 29, by sending by post a written notice specifying the time and place of the meeting to every unit holder at their last known address, not later than 14 days before the date of the proposed meeting.

(2) A provision implied in a trust deed relating to any unit trust in accordance with this section shall be enforceable by the unit trustee or any unit holder of the unit trust.

29. MEETINGS OF UNIT HOLDERS.

A meeting of the unit holders of a unit trust shall be under the chairmanship of a nominee of the unit trustee and shall be conducted in accordance with Schedule 2 of the *Companies Act 1997*, other than Section 1, with such modifications as are necessary, including but not limited to the following:—

- (a) references to shareholders and shares shall be references to unit holders and units respectively:
- (b) references to directors and the board shall be references to the unit trustee:

- (c) references to the constitution of the company shall be to the trust deed of the unit trust.

30. INTERESTS IN UNIT TRUSTS TO BE TRANSFERABLE.

Every unit in a unit trust shall be transferable and the trust deed in respect of the unit trust shall state the manner in which transfers of units in the unit trust shall be made and recorded.

31. MATTERS TO BE SPECIFIED IN UNIT TRUST DEEDS.

(1) The trust deed in respect of each unit trust shall state—

- (a) the investments in which the assets of the unit trust can be invested; and
- (b) the terms relating to the redemption, transfer and transmission of units; and
- (c) the circumstances in which the unit trust shall or may be wound up, the procedure for doing so and the rights and liabilities of unit holders on and in the course of the winding up of the unit trust; and
- (d) the terms relating to the appointment, remuneration and removal from office of the unit trustee and any manager; and
- (e) the powers and duties of the unit trustee and any manager; and
- (f) whether the unit trustee or any manager has an obligation to buy back units in the unit trust if requested to do so.

(2) Where the unit trustee or any manager is under an obligation to buy back units in the unit trust, the trust deed shall also state the manner in which, and the conditions on which, such units are to be bought back, including the method of calculating the minimum price at which units are to be bought back.

32. REMOVAL OF UNIT TRUSTEE.

(1) The Securities Commission may by notice in writing to the unit trustee order the removal of the unit trustee.

(2) Where the Securities Commission orders the removal of a unit trustee or a unit trustee resigns or retires, that unit trustee shall not exercise any powers relating to the unit trust from the date of the order, resignation or retirement.

(3) A unit trustee shall comply with a notice issued by the Securities Commission under this section, and every director of the unit trustee that is aware of the notice shall be responsible for ensuring that the unit trustee complies with it.

33. COURT MAY CONFER ADDITIONAL POWERS.

(1) Subject to the trust deed, where, on the application of a unit trustee, the Court is satisfied that—

- (a) any sale or other disposition, or any purchase, investment, acquisition, retention, expenditure or other transaction is expedient in the management or administration of any money, investments or other property subject to the unit trust, or it would be in the best interests of the unit holders,

but, it is inexpedient, difficult or impracticable to effect the same without the assistance of the Court, or the same cannot be effected by reason of the absence of any power for that purpose vested in the unit trustee or any manager by the trust deed or by law, it may by order—

- (b) confer upon the unit trustee or any manager, either generally or in any particular instance, the necessary power for the purpose, on such terms and conditions, if any, as the Court thinks fit; and
- (c) may give such directions as it thinks fit to the trustee or manager in respect of the exercise of the power conferred by the order.

(2) The Court may, in determining whether to make any order under Subsection (1) and the type of any such order, have regard to any recommendation made by the Securities Commission.

34. TRUST DEED NOT TO EXEMPT UNIT TRUSTEE OR MANAGER.

(1) Any provision in a trust deed relating to a unit trust or in any other instrument shall be void so far as it would have the effect of—

- (a) exempting a unit trustee or manager, or any director or officer of the unit trustee or manager from liability for breach of trust where they fail to show the degree of care, diligence and skill required of them in that capacity, having regard to the provisions of the Act, this Regulation and the trust deed and the powers, authorities or discretions conferred under it; or
- (b) indemnifying the unit trustee or manager, or any director or officer of the unit trustee or manager from any such liability.

(2) This section does not apply to—

- (a) any indemnity given or insurance effected in accordance with Section 140 of the *Companies Act 1997*; or
- (b) any insurance effected in relation to a unit trustee or manager for any liability referred to in Subsection (1), provided it is expressly authorized in the trust deed.

PART VII. – TRUST DEEDS FOR DEBT SECURITIES.***Division 1.******Implied Provisions in Trust Deeds for Debt Securities.*****35. CLAUSES DEEMED TO BE CONTAINED IN TRUST DEEDS.**

Every trust deed relating to debt securities–

- (a) shall be deemed to include the matters set out in this Part; and
- (b) may include additional information not inconsistent with this Part.

36. REQUIREMENTS, DUTIES ETC., OF TRUSTEE FOR DEBT SECURITIES.

(1) Every trustee under a trust deed relating to debt securities shall be a body corporate incorporated or registered in the country.

(2) A trustee under a trust deed relating to debt securities shall have the following duties:–

- (a) to ensure that the affairs of the trust are conducted in a proper and efficient manner:
- (b) to exercise due care, diligence and skill that a reasonable trustee would exercise in the same circumstances, in the exercise and performance of its functions, powers and duties:
- (c) to act honestly:
- (d) to act in the best interests of the holders, and where there is a conflict between the interests of the holders and its own interests, to give priority to the interests of the holders:
- (e) not to make use of information acquired in the exercise of its functions, powers and duties as trustee to gain an improper advantage for itself or another person, or to cause detriment to holders:
- (f) to ensure compliance with the Act, this Regulation, the trust deed and the terms of the offer of the debt securities, and, except where it is satisfied that the breach will not have a materially adverse effect on the security, if any, of the debt securities or the interests of the holders, to–
 - (i) report promptly any breaches by any person to the Securities Commission; and
 - (ii) do all things as it is empowered to do to cause any breach to be remedied.

(3) In addition to Subsection (2), a trustee under a trust deed relating to debt securities shall exercise reasonable diligence to ascertain whether or not the assets of the borrowing group that are, or may be, available, whether by way of security or

otherwise, are sufficient or likely to be sufficient to discharge the amounts of the debt securities as they become due.

(4) The following shall be held in trust by the trustee under a trust deed relating to debt securities for the benefit of the holders of debt securities:—

- (a) the right to enforce the issuer's obligation to repay:
- (b) any charge or security for repayment:
- (c) the right to enforce any other duties that the issuer and any guarantor have under—
 - (i) the terms of the debt securities offered to the public; or
 - (ii) the provisions of the Act, this Regulation or the trust deed.

(5) Section 34 shall also apply to a trust deed relating to debt securities, with such modifications as are necessary.

37. RIGHT OF TRUSTEE TO OBTAIN INFORMATION.

(1) A trustee under a trust deed relating to debt securities shall be entitled to receive all notices of, and other communications relating to, any general meeting of the issuer which any member of the issuer is entitled to receive.

(2) A representative of the trustee under a trust deed relating to debt securities, being a person authorized to act for the purposes of this section by resolution of the directors or other governing body of the trustee, shall be entitled to attend any general meeting of the issuer, and to be heard at any such meeting which he attends on any part of the business of the meeting which concerns the trustee as such or the holders of debt securities for whom it is trustee.

(3) The issuer shall on a regular basis—

- (a) at the request in writing of the trustee, make available for its inspection the whole of the accounting and other records of the issuer; and
- (b) give to the trustee such information as it requires with respect to all matters relating to such records.

(4) In addition to Subsection (3), Section 74 of the Act shall apply, with such modifications as are necessary, in relation to debt securities which have been offered to the public.

38. MEETINGS RELATING TO DEBT SECURITIES.

(1) At the request in writing of the trustee under a trust deed relating to debt securities or of persons holding not less than 10% in value of the issued debt securities to which the deed relates, the issuer shall call a meeting of the holders of those securities for the purpose of considering the financial statements of the issuer for its last preceding financial year, or of giving directions to the trustee in relation to the exercise of its powers.

(2) A meeting called pursuant to Subsection (1) shall be called by sending by post a notice, specifying the time and place of the meeting, to every holder of such securities at their last known address not later than 14 days before the date of the proposed meeting.

(3) A meeting called pursuant to Subsection (1) shall be under the chairmanship of a nominee of the trustee and shall be conducted in accordance with Schedule 2 of the *Companies Act 1997*, other than Section 1, with such modifications as are necessary, including but not limited to the following:—

- (a) references to shareholders and shares shall be references to holders of debts securities and debt securities respectively;
- (b) references to directors and the board shall be references to the trustee;
- (c) references to the constitution of the company shall be to the trust deed of the trust.

Division 2.

Duties of Guarantors for Debt Securities.

39. DUTIES OF GUARANTORS FOR DEBT SECURITIES.

(1) A guarantor, if any, in relation to debt securities shall—

- (a) carry on and conduct its business in a proper and efficient manner; and
- (b) make all of its financial and other records available for inspection by—
 - (i) the trustee; or
 - (ii) a representative of the trustee, being a person authorized to act for the purposes of this section by resolution of the directors or other governing body of the trustee; or
 - (iii) a registered company auditor appointed by the trustee to carry out the inspection,

and provide the above with any information, explanations or other assistance that they require about matters relating to the records.

(2) Where a guarantor creates a charge, it must—

- (a) provide the trustee with written details of the charge within 21 days after it is created; and
- (b) where the total amount to be advanced on the security of the charge is indeterminate, give the trustee written details of—
 - (i) the amount of each advance made within seven days after it is made; or
 - (ii) where the advances are merged in a current account with bankers, trade creditors or anyone else, the net amount outstanding on the advances at the end of every three months.

PART VIII. – SUBSTANTIAL SHAREHOLDERS AND BENEFICIAL OWNERSHIP OF SHARES.

40. FORM AND CONTENT OF SUBSTANTIAL SHAREHOLDERS NOTICES.

(1) Every notice pursuant to–

- (a) Section 115(1) of the Act shall be in Form 3 in Schedule 4; and
- (b) Section 116(1) of the Act shall be in Form 4 in Schedule 4; and
- (c) Section 117(1) of the Act shall be in Form 5 in Schedule 4,

and shall contain the information specified in that form.

(2) The information required to be disclosed in the notice shall be given as at the time immediately after–

- (a) in the case of a person who is a substantial shareholder on the commencement of the Act, that date; and
- (b) in any other case, the day on which the person becomes aware of the relevant interest that makes the person a substantial shareholder.

(3) For the purposes of Section 115(2)(b)(ii) of the Act, the following are the prescribed particulars of the voting shares:–

- (a) the total number of voting shares in each specified class in which the person has a relevant interest:
- (b) the total percentage of the voting shares in each specified class in which a relevant interest is held.

(4) For the purposes of Sections 115(2)(b)(iii), 116(2)(c) and 117(2)(c)(i) of the Act, the following are the prescribed particulars of each relevant interest and each change in a relevant interest:–

- (a) a brief description of the nature of the relevant interest in the voting shares:
- (b) the date and a brief description of the transaction under which the relevant interest was acquired or disposed of, or otherwise arose or ceased, or from which the change in the relevant interest results, as the case may be:
- (c) the number of voting shares affected by or related to the transaction:
- (d) the consideration, if any, for that transaction expressed in Kina, including the value of benefits received or to be received, if any:
- (e) the name, if known, of the other party or parties to that transaction, except in the case of a transaction on a stock exchange:
- (f) for the purposes of Section 115(2)(b)(iii) only, the consideration, if any, paid for each relevant interest in voting shares which was acquired or

otherwise arose in the four months prior to the date on which the substantial shareholder became a substantial shareholder:

- (g) if known, the name and address of any other person or persons believed to have given, or to be intending to give, notice under this Regulation in relation to the transaction to which the notice relates:
- (h) the name and address of each associate of the person submitting the notice who has a relevant interest in voting shares in the company, together with details of—
 - (i) the nature of their association with the associate; and
 - (ii) the relevant interest of the associate.

(5) For the purposes of Sections 115(2)(b)(iv), 116(2)(d) and 117(2)(c)(ii) of the Act, the following are the prescribed particulars of any agreement:—

- (a) the date of the agreement:
- (b) details of the material terms of any relevant agreement through which a relevant interest, the subject of the notice, was acquired or disposed of, or otherwise arose or ceased, or from which the change in number or nature of the relevant interest results, as the case may be:
- (c) if a relevant interest was acquired or disposed of, or otherwise arose or ceased, or from which the change in number or nature of the relevant interest results, as the case may be, from or in an oral agreement, the material terms of that agreement which shall be reduced to writing.

(6) For the purposes of Sections 115(2)(c), 116(2)(e) and 117(2)(e) of the Act, the following are the prescribed documents:—

- (a) a true copy of any document setting out the material terms of any relevant agreement that—
 - (i) contributed to the person having to submit a notice; and
 - (ii) is in writing or in a document in which the material terms of an oral agreement have been reduced to writing in accordance with this section; and
 - (iii) is readily available to the person submitting the notice:
- (b) where a document in Paragraph (a) is not readily available to the person submitting the notice, a memorandum in writing detailing the material terms of the document.

(7) Where a substantial shareholder has different relevant interests in the same voting shares of the listed company concerned, the particulars of each of those interests shall be disclosed in or and attached to the appropriate notice.

(8) If the substantial shareholder has different relevant interests in different voting shares of the listed company concerned, the particulars of each of those interests shall be disclosed in or and attached to the appropriate notice.

41. TRANSITIONAL ARRANGEMENTS.

Any notice which is given, prior to the commencement of this Regulation, pursuant to Section 115, 116 or 117 of the Act, shall be deemed to have been given in accordance with this Regulation.

42. DEFINITIONS FOR BENEFICIAL OWNERSHIP NOTICES.

For the purpose of Part VIII of the Act—

- (a) “relevant interest” shall have the same meaning as in Sections 113 and 114 of the Act; and
- (b) “voting share” shall have the same meaning as in Section 112(1) of the Act.

43. PRESCRIBED FEE FOR BENEFICIAL OWNERSHIP NOTICE.

For the purposes of Section 130(1) of the Act the prescribed fee for compliance with a notice is K5.00.

PART IX. – MISCELLANEOUS.**44. GENERAL PENALTY.**

A person who contravenes or fails to comply with a provision of this Regulation, other than Section 15, is guilty of an offence.

Penalty: A fine not exceeding K50,000.00.

45. FORMS.

(1) Where a provision of the Act is specified in the first column of Schedule 4, the form that is specified in the third column of Schedule 4 in relation to the provision is the form to be used for the purposes of the provision as described in the second column of Schedule 4.

(2) A form shall be in the format prescribed in this Regulation, unless the Registrar approves otherwise.

(3) Where no form is prescribed in Schedule 4 for a provision of the Act or this Regulation, the Registrar may prescribe a form for the purposes of that provision.

46. PARTICULARS PRESCRIBED BY FORMS.

Where a form prescribed by this Regulation requires completion by the insertion of information, particulars or other matters, or the attachment to the form of a document containing information, particulars or other matters referred to in the form, that information, those particulars or other matters as prescribed are the information, particulars or other matters required under the provision of the Act or this Regulation for the purposes of which the form is prescribed, and shall be completed or attached, as the case may be.

47. DIRECTIONS IN FORMS.

A form prescribed by this Regulation shall be completed in accordance with such notes, instructions or directions as are specified in the form or by the Registrar in writing.

48. FEES AND CHARGES.

(1) For the purposes of Section 137(h) of the Act, the fees set out in Schedule 5 shall be payable to the Registrar or the Securities Commission as specified in respect of the matters to which they relate.

(2) The fees set out in Schedule 5 may include fees payable for submitting a document after the time limit prescribed by the Act or this Regulation.

(3) The Registrar or the Securities Commission, as the case may be, may refuse to register a document, perform a function, or exercise a power until the prescribed fee or amount is paid.

(4) Any fee or amount payable to the Registrar or the Securities Commission is recoverable in any court of competent jurisdiction as a debt due to the Registrar or the Securities Commission, as the case may be.

(5) In addition to Section 91(2) of the Act, the Securities Commission may at its discretion and on such terms and conditions that it thinks fit, allow a person to inspect or copy a document or information in its possession or under its control upon payment of the prescribed fee.

(6) The Securities Commission is authorized to require payment to it of—

- (a) the costs incurred by it in the publication of any notice in the National Gazette;
- (b) the costs incurred by it in the obtaining of expert advice or expert assistance; and
- (c) a fee calculated at an hourly rate of K100 for work carried out by an officer or employee of the Commission,

in respect of the exercise of any of its powers or functions under the Act or this Regulation.

SCHEDULE 1 – Section 7(1).
MATTERS REQUIRED IN COMPLETE PROSPECTUSES FOR EQUITY
SECURITIES.

1. MAIN TERMS OF OFFER.

(1) The name of the issuer, its postal address and the address of its registered office or, if it does not have a registered office, the address of its principal place of business in the country.

(2) A brief description of the securities being offered.

(3) The maximum number or amount, and nominal value (if any), of the securities being offered.

(4) The terms and conditions of the offer.

2. NAME AND ADDRESS OF OFFEROR.

Where, by virtue of Section 53 of the Act, the issuer is not the offeror—

(a) the name of the offeror; and

(b) the offeror's postal address and the address of its registered or, if it does not have a registered office, the address of its principal place of business in the country;

(c) the net amount of the consideration, if any, received or to be received by the issuer in respect of the original issue of the securities.

3. DETAILS OF BODY CORPORATE.

The following information in relation to the issuing body corporate:—

(a) the date of incorporation:

(b) a brief history of the issuing body corporate:

(c) brief details of any subsidiaries:

(d) the names of the directors:

(e) a brief description of the activities of the members of the issuing group during the five years preceding the date of the registered prospectus.

4. SUBSTANTIAL EQUITY SECURITY HOLDERS OF ISSUING BODY CORPORATE.

The names of the persons who are the registered holders of the 10 largest holdings of equity securities of the issuing body corporate at a date not earlier than 30 days before the date of the registered prospectus, and the number and percentages of their respective holdings.

5. FINANCIAL STATEMENTS.

(1) Financial statements, including a balance sheet referred to in Section 59(1)(e) of the Act, which provide historical (where available) and forecast material information, which satisfies the requirements of Section 4 of the Regulation, as to the assets and liabilities, financial position and performance, profits and losses and prospects of the issuing group.

(2) The financial statements required by Subclause (1) shall comply with generally accepted accounting practice, but where they do not give a true and fair view of the matters to which they relate, they shall contain such additional information and explanations as will give a true and fair view of those matters.

(3) A statement as to whether or not the amounts stated in the financial statements required by Subclause (1) have been taken from audited financial statements.

(4) If the amounts stated in the financial statements required by Subclause (1) have been taken from audited financial statements but the audit report was qualified, a statement to that effect explaining what the qualification was.

(5) Nothing in this clause limits the information that may be included in the financial statements required by Subclause (1) or in the notes to those financial statements.

6. DIRECTORS' STATEMENTS.

Statements by the issuer, or where the issuer is a body corporate, the directors of the issuer, as to whether, after due enquiry by him or them—

- (a) in relation to the period between the date of the latest financial statements contained in the registered prospectus and the date of the registered prospectus there have not, in their opinion, arisen any circumstances that materially adversely affect—
 - (i) the trading or profitability of the issuing group; or
 - (ii) the value of the assets of the issuing group; or
 - (iii) the ability of the issuing group to satisfy the solvency test as defined in Section 4(1) of the *Companies Act 1997*; and
- (b) he or they have reasonable grounds to believe, and do believe that—
 - (i) all statements in the registered prospectus, other than a statement purporting to be made by, or based upon a statement of, an expert or public official or authority are true and not misleading; and
 - (ii) all statements in the registered prospectus purporting to be made by, or based upon a statement of, an expert or public official or authority fairly represents the statement of that person or authority; and

- (iii) all extracts from, or copies of, any report, official public document, statement, valuation or other document, included in, attached to or forming part of the registered prospectus fairly represents and is a true and correct extract or copy of the original.

7. PROVISIONS RELATING TO INITIAL FLOTATIONS.

In the case of the first offer to the public of equity securities of the issuing body corporate—

- (a) a brief description of the plans that the directors of the issuing body corporate, and the directors of any other member of the issuing group, have in respect of the issuing group during the year commencing on the date of the registered prospectus, including the sources of finance that will be required for the plans; and
- (b) a statement as to whether or not the proceeds of the offer of securities may, notwithstanding the stated directors' plans, be applied towards any undertaking that the issuer may lawfully engage in; and
- (c) a forecast statement of changes in the financial position of the issuing group which the directors of the issuer expect to occur in the year commencing on the date of the registered prospectus.

8. MINIMUM AMOUNT TO BE RAISED.

For the purposes of Section 58(2) of the Act, the minimum amount that, in the opinion of the issuer, must be raised by the issue of the securities in order to provide the sums, the amount of which shall be individually specified, or, if any part of those sums is to be defrayed in any other manner, the balance of the sums, required to be provided in respect of each of the following matters:—

- (a) the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the offer:
- (b) any preliminary expenses payable by the issuer, and any commission so payable to any person, who shall be named, in consideration of his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for, any of the securities:
- (c) working capital:
- (d) the repayment of any money borrowed by the issuer in respect of any of the matters referred to in Paragraphs (a), (b) and (c).

9. OPTIONS TO SUBSCRIBE FOR SECURITIES OF ISSUING GROUP.

Where an option to subscribe for securities of any member of the issuing group is granted to, or is proposed to be granted to, any person by or on behalf of that member of the issuing group, the following information:—

- (a) in respect of each class of the securities that are under option—

- (i) a description of that class; and
 - (ii) the total number of securities in that class; and
 - (iii) the subscription price of each security in that class; and
 - (iv) the consideration, if any, given or to be given for each option and the expiry date of each option:
- (b) the total number, if any, of each class of securities under option to, or for the benefit of, the directors or employees of the issuer or the issuing group, but this paragraph shall not apply where the option is granted, or is proposed to be granted, on the same terms and on a pro rata basis to all holders of securities of the same class as those to which the option relates.

10. MATERIAL CONTRACTS.

Details of every material contract entered into by any member of the issuing group at any time in the two years prior to the date of the registered prospectus, not being a contract entered into in the ordinary course of business, including but not limited to—

- (a) its date;
- (b) the names of the parties to it; and
- (c) its general nature;

11. PENDING PROCEEDINGS.

A brief description of any legal proceedings or arbitrations that—

- (a) are pending at the date of the registered prospectus; and
- (b) may have a material adverse effect on the issuing group.

SCHEDULE 2 – Sec. 7(2).

ADDITIONAL MATTERS REQUIRED IN REGISTERED PROSPECTUSES FOR DEBT SECURITIES.

1. GUARANTORS.

(1) The name of each guaranteeing subsidiary, provided that, where all of the subsidiaries of the borrowing body corporate are guaranteeing subsidiaries, it shall be sufficient compliance with this subclause if the registered prospectus contains a statement to that effect.

(2) Where the registered prospectus or an advertisement relating to the securities offered states or implies that a person, other than a guaranteeing subsidiary, guarantees the repayment of the debt securities offered or any part of those debt securities, or the payment of any interest or other moneys to holders of the securities, the following matters in respect of each such person:—

- (a) the name of the person:

- (b) a description, and, where practicable, quantification, of the liability of the person to holders of the securities;
- (c) where the liability of the person to holders of the securities is secured by a mortgage or charge over any of the person's assets, particulars of the mortgage or charge;
- (d) subject to Subclause (3), the amount of the net tangible assets of the person as shown in their most recent audited financial statements, excluding any assets which are also assets of the borrowing group, together with a statement of any qualifications in the audit report that reflect on the statement of those assets in the financial statements.

(3) Where there are no audited financial statements of the person referred to in Subclause (2) which are dated within 18 months of the date of the registered prospectus—

- (a) the figure given for the amount of that person's net tangible assets in the registered prospectus shall be that as at a date stated in the registered prospectus, being a date not earlier than six months before the date of the registered prospectus; and
- (b) the registered prospectus shall include a statement to the effect that the figure for that person's net tangible assets has not been taken from audited financial statements.

2. RANKING OF SECURITIES.

The aggregate amount, as at the date of the latest historical financial statements contained in the registered prospectus pursuant to Clause 5 of Schedule 1, of any securities that are secured by a mortgage or charge over any of the assets of the borrowing group and that rank in point of security ahead of, or equally with, the debt securities being offered.

3. PROVISIONS OF TRUST DEED.

(1) In respect of the trust deed relating to the debt securities being offered the following:—

- (a) the date of the trust deed;
- (b) such particulars of the trust deed as are sufficient to identify the trust deed, including the date of its registration under Section 70 of the Act;
- (c) brief particulars of any terms of the trust deed that impose limitations relating to—
 - (i) the creation of new mortgages or charges ranking in point of security ahead of, or equally with, any mortgage or charge securing the debt securities being offered; or
 - (ii) any ratio of liabilities, or of any class of liabilities, to assets, or to any class of assets, of the borrowing body corporate;

- (d) where there are no terms of the kind referred to in Subparagraph (c), a statement to that effect;
- (e) brief particulars of the duties stated by the trust deed to be those of the trustee.

(2) Brief particulars of any restrictions on the ability of any member of the borrowing group to borrow, being restrictions—

- (a) which result from any undertaking given, or contract or deed entered into, by the member; and
- (b) which are not set out elsewhere in the registered prospectus.

(3) A statement by the trustee that—

- (a) the offer of debt securities complies with any relevant provisions of the trust deed; and
- (b) the trustee does not guarantee the repayment of the debt securities or the payment of interest.

SCHEDULE 3 – Section 7(3).

MATTERS REQUIRED IN REGISTERED PROSPECTUSES FOR UNIT TRUSTS.

1. DESCRIPTION OF UNIT TRUST.

- (1) The name of the unit trust.
- (2) The place of establishment of the unit trust.
- (3) The duration of the unit trust.
- (4) A brief description of the units being offered.
- (5) A statement as to whether there is any maximum number or amount of units in the unit trust, and if so, that number or amount.
- (6) The price or other consideration to be paid or provided for the units, if it is a fixed amount, and where the price or other consideration is not a fixed amount, a description of the manner by which that amount is determined.
- (7) The amount, or maximum amount, of the fees payable, or deductions that will be made, if any, for purchasing or selling units and the time or times at which they will be payable or made.
- (8) If the offer of units is made only during a particular period, the opening and closing dates of the offer.

2. MANAGERS, PROMOTERS, AUDITORS AND ADVISERS.

- (1) The name and address of any manager of the unit trust, and the name and address of every director of the manager, at the date of the registered prospectus.
- (2) The statute or other authority under which any manager is incorporated, and the date and country of incorporation.

(3) Where a manager is a subsidiary, the name and country of incorporation of its ultimate holding company.

(4) The names of all other unit trusts managed by any manager, as at the date of the registered prospectus.

(5) The name of every promoter, if any, of the unit trust at the date of the registered prospectus.

(6) Where a director of any manager or any promoter, or where a promoter is a body corporate, a director of any promoter has, during the five years preceding the date of the registered prospectus, been—

- (a) adjudged bankrupt; or
- (b) convicted of any crime involving dishonesty, as defined in Section 425(5) of the *Companies Act 1997*; or
- (c) disqualified, for whatever reason, from acting as a director of a company; or
- (d) placed in receivership,

a statement to that effect including the name and any alternative or former name or names, of the manager, promoter or director concerned.

(7) The names of any registrar, custodian and auditors of the unit trust, and of any solicitors and other professional advisers, other than employees of any manager or of any associated person, involved in the preparation of the registered prospectus.

(8) The names, addresses and qualifications of any experts named in the registered prospectus.

(9) For the avoidance of doubt, this clause applies to any unit trustee which is also the manager of the unit trust, unless the required information is provided in accordance with Clause 3.

3. UNIT TRUSTEE.

(1) The name and address of the unit trustee of the unit trust and the name and address of each director of the trustee.

(2) The statute or other authority under which the trustee was incorporated, and the date and country of incorporation.

(3) Where the unit trustee is a subsidiary, the name, and country of incorporation, of its ultimate holding company.

(4) A description of the extent, if any, to which the unit trustee is indemnified by the unit trust.

(5) A statement whether or not the unit trustee guarantees the repayment of the units or the payment of any earnings on the units.

4. DESCRIPTION OF UNIT TRUST AND ITS DEVELOPMENT.

(1) The date of the trust deed for the unit trust and the dates of all amendments to the trust deed, and the date it was registered under Section 70 of the Act.

(2) A summary of the material terms of the trust deed for the unit trust, including any amendments.

(3) A description of any restrictions on investment of the funds of the unit trust, to the extent not included in the summary under Subclause (2).

(4) A brief description of the investment and other material activities of, and any material developments relating to, the unit trust during the five years preceding the date of the registered prospectus.

(5) A description of the investment objectives and policies for the unit trust, and of the means by which changes can be made to those objectives and policies.

(6) A description of the investment performance of the unit trust during each of the five years preceding the date of the registered prospectus, and, where any performance data is set out in the registered prospectus, the basis on which such data has been calculated.

(7) A description of the policy regarding distributions from the unit trust.

(8) A statement of any undertakings to unit holders in relation to the return of capital.

5. UNIT HOLDER LIABILITY.

A statement as to whether any liabilities, including contingent liabilities, may be incurred by unit holders in relation to the unit trust, other than in respect of the purchase price of units and, if so, whether there are any limitations on those liabilities.

6. SUMMARY OF FINANCIAL STATEMENTS.

(1) Financial statements in summary form and, where practicable, in tabular form in respect of the unit trust.

(2) The amounts in the financial statements required by Subclause (1) shall be amounts that appear in financial statements giving a true and fair view of the results and state of affairs of the unit trust for the period concerned, or, where no such statements have been prepared, amounts that would have appeared in such statements if they had been prepared.

(3) The amounts stated in the financial statement required by Subclause (1) must include—

(a) in respect of both the accounting period referred to in Clause 16(1) and each of the four consecutive accounting periods preceding that period, if any, the following amounts:—

- (i) total investment revenues:
- (ii) net gains or losses on investments distinguishing between realised and unrealised:
- (iii) other revenues:
- (iv) investment expenses:
- (v) management expenses:
- (vi) total interest expenses:
- (vii) other expenses:
- (viii) the net surplus or deficit before taxation and extraordinary items:
- (ix) the total provided for, or credited by way of taxation:
- (x) where the equity method of accounting has been used, surpluses or deficits that have resulted from using that method:
- (xi) the net surplus or deficit before extraordinary items:
- (xii) the total of extraordinary items, net of taxation:
- (xiii) the net surplus or deficit after extraordinary items:
- (xiv) distributions or appropriations of net surplus or deficit:
- (xv) other distributions, which must be specified: and
- (b) as at the end of each such period the following amounts:—
 - (i) total assets:
 - (ii) total tangible assets:
 - (iii) total liabilities:
 - (iv) total unit holders' funds.

(4) In respect of the amounts stated in the financial statements required by Subclause (1)—

- (a) a description of the nature of any item that is of such incidence and size, or of such a nature, that its disclosure is necessary to explain the performance of the unit trust; and
- (b) a description, and where practicable, quantification, of the effect on those amounts of any material changes in the activities of the unit trust, and of any material changes in the accounting policies used, that occurred during the periods to which the amounts relate.

(5) A statement as to whether or not the amounts stated in the financial statements required by Subclause (1) have been taken from audited financial statements.

(6) If the amounts stated in the financial statements required by Subclause (1) have been taken from audited financial statements but the audit report was qualified, a statement to that effect explaining what the qualification was.

(7) A financial statement in summary form is not required under Subclause (1) to include amounts in respect of any accounting period that ended more than two years before the date on which this clause comes into effect.

7. MINIMUM AMOUNT TO BE RAISED.

For the purposes of Section 58(2) of the Act, the minimum amount that, in the opinion of the unit trustee, must be raised by the issue of the units in order to provide the sums, or, if any part is to be met in any other manner, the balance of the sums, required to be provided in respect of each of the following matters:—

- (a) the purchase price of any property purchased or to be purchased which is to be met in whole or in part out of the proceeds of the offer:
- (b) any preliminary expenses and commission payable in whole or in part out of the proceeds of the offer:
- (c) working capital:
- (d) the repayment of any money borrowed in respect of any of the matters referred to in Paragraphs (a), (b) and (c).

8. GUARANTORS.

(1) Where the registered prospectus, or an advertisement relating to the unit trust, states or implies that a person guarantees the payment of any moneys payable from the unit trust, the following matters in respect of each such person:—

- (a) the name of the person:
- (b) a description, and, where practicable, quantification, of the liability of the person in respect of that money:
- (c) a statement whether the liability of the person is secured by a mortgage or other charge and, if so, the nature and amount of the charge:
- (d) the amount of the net tangible assets of the person as shown in the most recent audited financial statements of the person, together with a statement of any qualifications in the audit report that reflect on the statement of those assets in the financial statements:
- (e) whether there are any contingent liabilities that could materially affect those net tangible assets:
- (f) whether the financial statements of the person are available for inspection and, if so, where.

(2) Where there are no audited financial statements of the person referred to in Subclause (2) which are dated within 18 months of the date of the registered prospectus—

- (a) the figure given for the amount of that person's net tangible assets in the registered prospectus shall be that as at a date stated in the registered prospectus, being a date not earlier than six months before the date of the registered prospectus; and
- (b) the registered prospectus shall include a statement to the effect that the figure for that person's net tangible assets has not been taken from audited financial statements.

9. ACQUISITION OF BUSINESS OR EQUITY SECURITIES.

(1) This clause does not apply in respect of—

- (a) any business or equity securities if the consideration paid or payable, or proposed to be paid, for the acquisition of the business or equity securities is not more than one-fifth of the amount of the total tangible assets shown in the financial statements referred to in Clause 16(1); or
- (b) any equity securities that are listed on a stock exchange.

(2) If a business or equity securities have been acquired for the purposes of the unit trust at any time in the two years preceding the date of the registered prospectus, the following information:—

- (a) a description of the activities of—
 - (i) that business; or
 - (ii) the business carried on by the issuing body corporate of those equity securities,

in the course of the period that began five years before the date of the registered prospectus and ended on the date on which the business, or equity securities, were acquired;

- (b) in respect of that business or the issuing body corporate of those equity securities, the requirements of Clause 5 of Schedule 1 in respect of the five accounting periods preceding the date of the registered prospectus.

(3) Where—

- (a) a business or equity securities have been acquired for the purposes of the unit trust at any time in the period between the last day of the accounting period referred to in Clause 16(1) and the date of the registered prospectus; or
- (b) the registered prospectus contains a statement to the effect that it is intended that a business or equity securities will be acquired for the purpose of the unit trust,

the following information:—

- (c) the amount of the consideration paid or payable, or proposed to be paid, for the business or equity securities;

- (d) a description of that business, or of the business carried on by the issuing body corporate of those equity securities, in the course of the five years before the date of the registered prospectus;
- (e) in respect of that business or the issuing body corporate of those equity securities, the requirements of Clause 5 of Schedule 1 in respect of the five accounting periods preceding the date of the registered prospectus.

10. OPTIONS AND UNITS PAID UP OTHERWISE THAN IN CASH.

(1) If options to subscribe for units have been or are to be issued, a description of the options.

(2) If units have been or are to be issued for consideration other than cash, a statement of the number of units, the non-cash consideration, and the extent to which the units are, or are to be, so paid up.

11. INTERESTED PERSONS.

(1) Where the unit trustee, or any manager or promoter of the unit trust, or any associated person of any of them, is entitled to remuneration for services, or to recover expenses, in respect of the unit trust, particulars of—

- (a) the nature of the services or expenses; and
- (b) if remuneration or expense recovery is from the unit trust, whether or not the amount of remuneration or expenses is limited and, if so, the limits.

(2) Where the unit trustee, or any manager or promoter of the unit trust, or any associated person of any of them, has, or has had at any time during the five years preceding the date of the registered prospectus, a material interest, whether direct or indirect, in the unit trust or in any contract or arrangement entered into on behalf of, or in respect of, the unit trust, being an interest material to either or both of that person and the unit trust, particulars of that interest.

(3) Where more than 10% of the value of the assets of the unit trust, calculated in accordance with generally accepted accounting practice, was, at any time during the two years preceding the date of the registered prospectus represented directly or indirectly by any securities of which the unit trustee, manager, or promoter of the unit trust, or any associated person of any of them was the issuer—

- (a) a description of those securities;
- (b) the terms and consideration for the issue;
- (c) the names of the parties concerned; and
- (d) that the information is provided in accordance with this subclause.

12. MATERIAL CONTRACTS.

Details of every material contract entered into in respect of the unit trust at any time in the two years preceding the date of the registered prospectus, not being a contract entered into in the ordinary course of business of the unit trust, including but not limited to—

- (a) its date; and
- (b) the names of the parties to it; and
- (c) its general nature.

13. PENDING PROCEEDINGS.

A brief description of any legal proceedings or arbitrations that—

- (a) are pending at the date of the registered prospectus; and
- (b) may have a material adverse effect on the unit trust

14. ISSUE EXPENSES.

Particulars of any issue expenses, including—

- (a) their amount or estimated amount; and
- (b) in respect of any commission payable—
 - (i) the rate of commission; and
 - (ii) the persons or classes of persons to whom the commission is payable.

15. OTHER TERMS OF OFFER AND UNITS.

All terms of the offer, and all terms of the units being offered, not elsewhere set out in the registered prospectus, other than—

- (a) any terms implied by law; or
- (b) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the registered prospectus.

16. FINANCIAL STATEMENTS.

(1) A reference to the latest financial statements for the unit trust that comply with generally accepted accounting practice, as if the unit trust was a company, other than an exempt company, within the meaning of the *Companies Act 1997*, and the accounting period covered by those statements.

(2) The date of the auditor's report on those financial statements, and a statement whether or not the report was qualified in any respect and, if so, explaining what the qualification was.

(3) A copy of a signed report by a qualified auditor stating whether the amounts stated pursuant to Clauses 6(2) and (3), and 9(2) and (3) have been extracted or copied from audited financial statements and whether the amounts have been correctly extracted or copied.

(4) Where the registered prospectus contains forecast financial information the auditor's report shall contain a statement in the following form:—

“In our opinion the forecast financial information, so far as the accounting policies and calculations are concerned, have been properly compiled on the footing of the assumptions made or adopted by the unit trustee set out at [*Insert page reference*] of the registered prospectus and are presented on a basis consistent with the accounting policies normally adopted in respect of the unit trust.”

17. PLACES FOR INSPECTION OF DOCUMENTS.

(1) The places in the country, which shall at least include the address required for the purposes of Section 6(1) of the Regulation, where copies of the following documents, and, where they are wholly or partly in a language other than English, a correct translation of those documents in English, may be inspected without fee by any person who so requests during the currency of the registered prospectus:—

- (a) the trust deed for the unit trust and any amendments to the deed:
- (b) the financial statements for the unit trust referred to in Clause 16(1):
- (c) any material contract referred to in the registered prospectus:
- (d) the latest annual report for the unit trust, if any.

(2) Section 6 of the Regulation shall apply to the documents, or parts of documents, referred to in Subclause (1).

18. OTHER MATERIAL MATTERS.

Any material matters relating to the unit trust, other than matters set out elsewhere in the registered prospectus or in information contained in the financial statements referred to in Clause 16(1).

19. MANAGER'S STATEMENT.

A statement by the directors of the manager, or if there is no manager which is not also the unit trustee, by the directors of the unit trustee as to whether, in their opinion, after due enquiry by them—

- (a) in relation to the period between the date of the latest financial statements contained in the registered prospectus and the date of the

registered prospectus there have not, in their opinion, arisen any circumstances that materially adversely affect—

- (i) the value of the assets of the unit trust; or
 - (ii) if the unit trust was a company, other than an exempt company, within the meaning of the *Companies Act 1997*, the ability of the unit trust to satisfy the solvency test as defined in Section 4(1) of the *Companies Act 1997*; and
- (b) he or they have reasonable grounds to believe, and do believe that—
- (i) all statements in the registered prospectus, other than a statement purporting to be made by, or based upon a statement of, an expert or public official or authority are true and not misleading; and
 - (ii) all statements in the registered prospectus purporting to be made by, or based upon a statement of, an expert or public official or authority fairly represents the statement of that person or authority; and
 - (iii) all extracts from, or copies of, any report, official public document, statement, valuation or other document, included in, attached to or forming part of the registered prospectus fairly represents and is a true and correct extract or copy of the original.

20. UNIT TRUSTEE'S STATEMENT.

A statement by the directors of unit trustee stating, in respect of the accounting period referred to in Clause 16(1), as to whether or not, in their opinion, any manager which is not also the unit trustee, has managed the unit trust during that period in accordance with the provisions of the trust deed, the offer of units and any authorized directions or instructions of the unit trustee.

**SCHEDULE 4 – PRESCRIBED FORMS.
PRESCRIBED FORMS.**

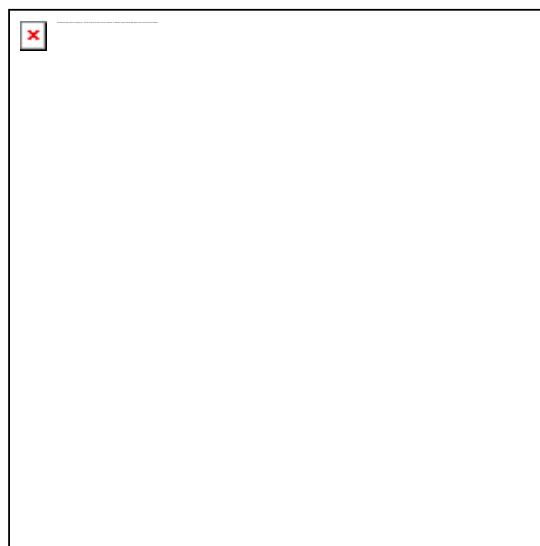
SECTION OF ACT.	DESCRIPTION OF FORM.	FORM NUMBER.
41(1)	Notice calling for claims against fidelity fund.	1
42(4)	Notice disallowing claim for compensation.	2
115(2)(a)	Notice of substantial shareholding.	3
116(2)	Notice of change in substantial shareholding.	4
117(2)(a)	Notice of cessation of substantial shareholding.	5

PAPUA NEW GUINEA.

Securities Act 1997.

Form 1 – NOTICE CALLING FOR CLAIMS AGAINST FIDELITY FUND.

Section 41(1). Form 1

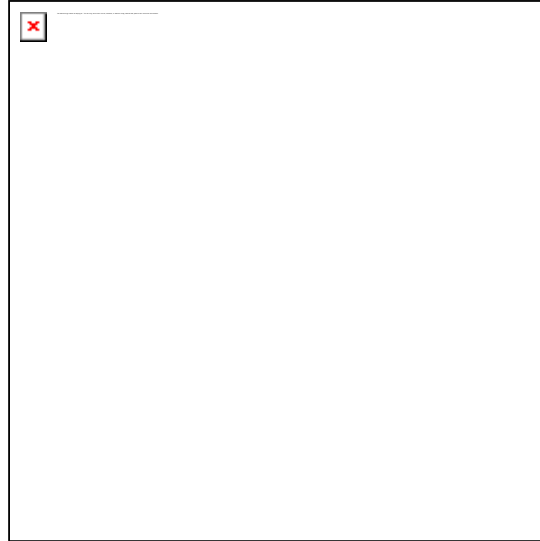


PAPUA NEW GUINEA.

Securities Act 1997.

Form 2 – NOTICE DISALLOWING CLAIM FOR COMPENSATION.

Section 42(4). Form 2.

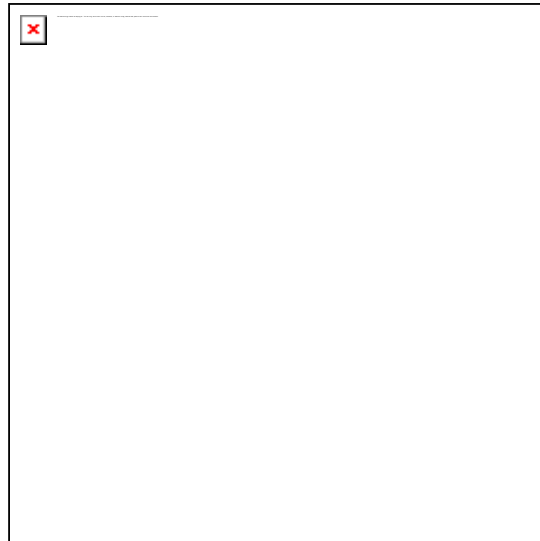


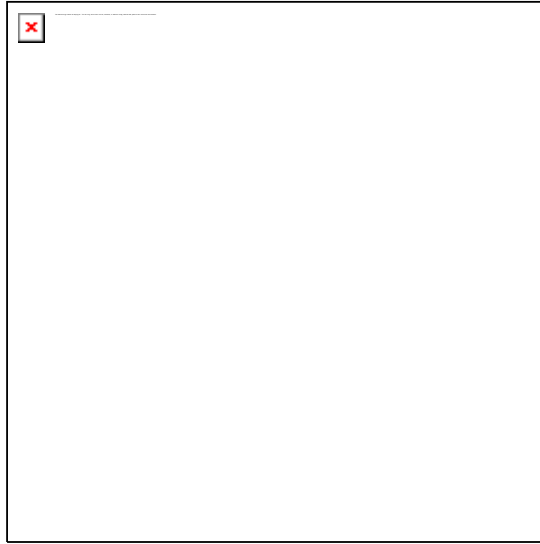
PAPUA NEW GUINEA.

Securities Act 1997.

Form 3 – NOTICE OF SUBSTANTIAL SHAREHOLDING.

Section 115(2)(a). Form 3.



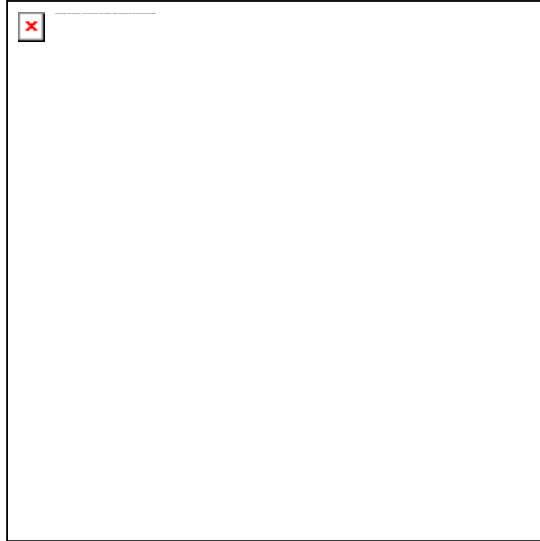


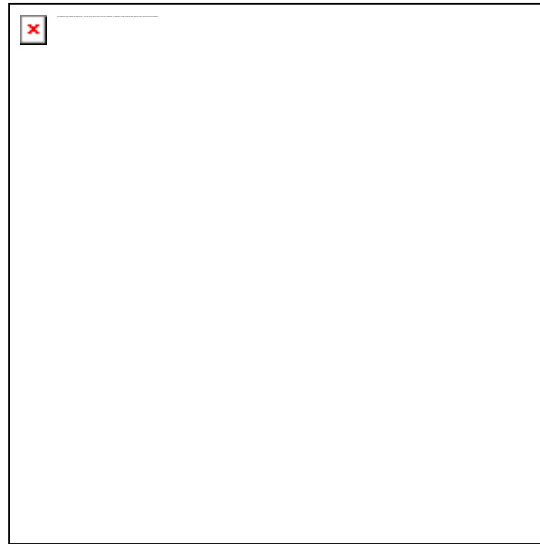
PAPUA NEW GUINEA.

Securities Act 1997.

Form 4 – NOTICE OF CHANGE IN SUBSTANTIAL SHAREHOLDING.

Section 116(2). Form 4.

An empty rectangular box with a thin black border. In the top-left corner, there is a small square icon containing a red 'x'.An empty rectangular box with a thin black border. In the top-left corner, there is a small square icon containing a red 'x'.



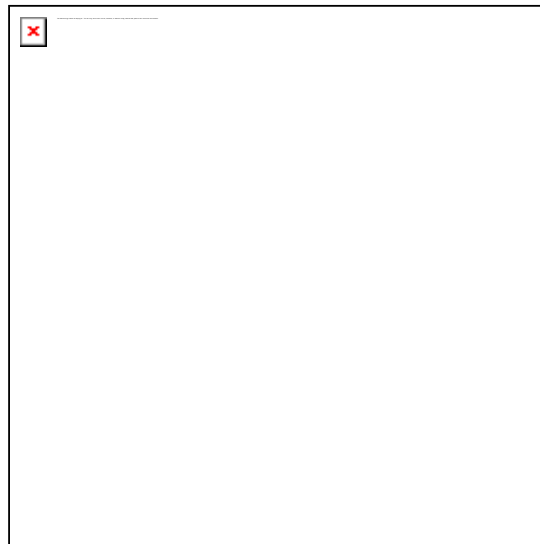
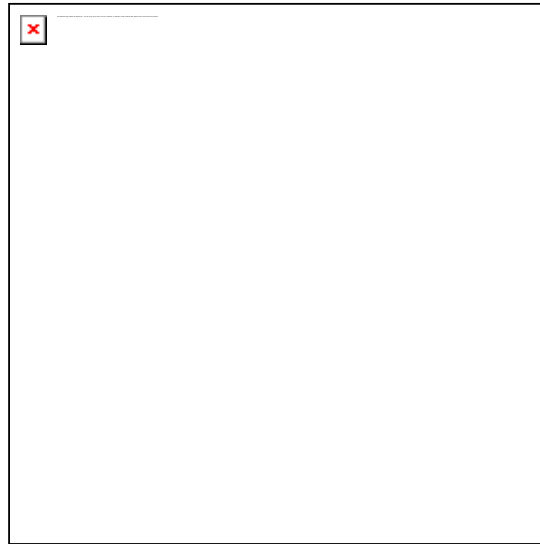
PAPUA NEW GUINEA.

Securities Act 1997.

***Form 5 – NOTICE OF CESSATION OF SUBSTANTIAL
SHAREHOLDING.***

Section 117(2)(a). Form 5.





SCHEDULE 5 – Section 48(1).
TABLE OF FEES PAYABLE.

ITEM MATTER.

FEE K.

FEES PAYABLE TO THE REGISTRAR.

1 For registration of a complete prospectus, concise prospectus or investment statement. K1,000.00

2 For registration of an overseas registered prospectus. K2,500.00

3 For registration of a profile statement. K250.00

4 For registration of a memorandum of amendments to aregistered prospectus. K250.00

5 For registration of a trust deed. K500.00

6 For registration of a copy of an instrument amending a trust deed. K100.00

7 For the inspection of, or a copy or extract, whether certified ornot, of or from a document kept by the Registrar underSection 91.

The corresponding feeprescribed in the*Companies Regulation 1998*

FEES PAYABLE TO THE SECURITIES COMMISSION.

8 For approval of a person as a trustee under Section 72. K1000.00

9 For the inspection of each document held by the Securities Commission. K25.00

10 For a copy of, or extract from any document held by the Securities Commission, in addition to any other fee. K2.00

FEES PAYABLE TO THE SECURITIES COMMISSION OR REGISTRAR, WHICHEVER IS APPLICABLE.

11 For the submission of any document or application after thetime specified in the Act in respect of that document (whetheror not any other fee is payable and in addition to any other fee so payable)–

- (a) if submitted not later than one month after the expiration of thetime prescribed; K25.00

(b) if submitted later than one month after the expiration of the time prescribed. K100.00

12 For the submission of any document for which a fee is not otherwise prescribed. K250.00

13 For an act done by the Registrar or the Securities Commission that he or it is required or authorized to do under the Act or this Regulation, and for which a fee is not elsewhere prescribed. K250.00

14 For any application or request for which a fee is not elsewhere prescribed. K250.00

* false and misleading statements in forms.

