

# FUTURES EXCHANGE



## Compliance with License requirements

*Regulation 4 and 5; First Schedule of The Capital Markets (Futures Exchanges) (Licensing Requirements) Regulations, 2013 and the Capital Markets (Corporate Governance) (Market Intermediaries) Regulations, 2011*

	Requirement	Met Y/N/NA	Comment
	<b>Requirement</b>		
1.	Duly completed application Form (Form 1)		
2.	Certified copy of the Certificate of incorporation		
	The applicant must be company limited by shares		
3.	Certified copy of the Memorandum and Articles of Association which <ul style="list-style-type: none"> <li>i. is in a form satisfactory to the Authority; and</li> <li>ii. restricts the applicant to the business of operating a futures market and services incidental thereto</li> </ul>		
4.	Details of the proposed trading system complying with the requirements of regulation 7 of these Regulations		
5.	Satisfactory Bank references		
6.	Business Feasibility plan appraised by an entity with a proven track record and expertise in futures or derivatives market development, establishment or management		



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	<b>Requirement</b>	<b>Met Y/N/NA</b>	<b>Comment</b>
7.	Rules of the proposed futures exchange containing provisions in compliance with the matters detailed under Regulation 6 (2) (a) of these Regulations		
8.	Unaudited accounts for the period of the accounting year ending not earlier than 6 months prior to the date of the application		
9.	The applicant's audited accounts for the preceding two years		
10.	<p>A declaration by directors as to whether after due enquiry by them in relation to the interval between the date to which the last accounts have been made and a date not earlier than fourteen days before the date of application-</p> <ul style="list-style-type: none"> <li>i. the business of the company has, in their opinion, been satisfactorily maintained;</li> <li>ii. they have, in their opinion, arisen any circumstances adversely affecting the company's trading or value of its assets;</li> <li>iii. there are any contingent liabilities by reason of any guarantees given by the company or any of its subsidiaries;</li> <li>iv. there are, since the last annual accounts, any changes in published</li> </ul>		



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	reserves or any unusual factors affecting the profit of the company or any of its subsidiaries;		
11.	A declaration by persons authorized as prescribed to accompany the application form;		
12.	Minimum authorized, issued and paid up equity share capital of one billion shillings		
13.	The applicant must be a company limited by shares		
14.	The applicant must be demutualized		
15.	Have a minimum of one hundred million shillings in the settlement guarantee fund before commencement of trading		
16.	The minimum liquid networth capital requirement for a futures exchange shall be –  (a) an amount equal to one half of the estimated gross operating costs of the futures exchange for the next twelve-month period; or  (b) such other liquid networth amount as may be prescribed by the Authority.		
17.	Satisfy requirements relating to ownership and governance structure specified in the Regulations		



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18.	Satisfy requisite capability including its financial capacity, functional expertise and infrastructure;		
19.	A licensed securities exchange which is desirous of running a futures market, shall apply to the Authority for an additional license for listing futures contracts under these Regulations and all the provisions of the Futures Regulations shall also apply to such securities exchange		
20.	Management structure		
	<ul style="list-style-type: none"> <li>▪ Board of Directors which should comprise of:               <ul style="list-style-type: none"> <li>- A minimum of 3 directors a third of whom must be natural persons</li> <li>- At least one third should be public interest directors as per Regulation 21 (1)</li> <li>- Not more than one third of the directors who are close relations of any director</li> </ul> </li> <li>▪ A director should not hold more than 2 directorships in market intermediaries unless they are subsidiaries or holding companies</li> </ul>		



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	Requirement	Met Y/N/NA	Comment
	<ul style="list-style-type: none"> <li>The Chairman of the Board must be a non-executive Director</li> </ul>		
	<ul style="list-style-type: none"> <li>Directors' declaration</li> </ul>		
	<ul style="list-style-type: none"> <li>Company Secretary (indicate name of individual and CPS Number)</li> </ul>		
	<ul style="list-style-type: none"> <li>Shareholding Structure, detailing the number of shares, the percentage holding and including the ultimate beneficial shareholding of all corporate shareholders and any existing Trusts if applicable. (Note that at least 15% of the paid up equity capital of a licensed futures exchange shall be held by a Kenyan entity as per Regulation 17)</li> </ul>		
	<ul style="list-style-type: none"> <li>Name and competencies of Chief Executive</li> </ul>		
	<ul style="list-style-type: none"> <li>Operating system including dealing infrastructure suitably located and equipped to effectively carry out its operations</li> </ul>		
	<ul style="list-style-type: none"> <li>Details of premises</li> </ul>		
	<ul style="list-style-type: none"> <li>Details of staff with professional and other relevant competence and experience (please note the requirement for chief financial officer, risk management officer, compliance officer and internal</li> </ul>		



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	audit functions as per the Corporate Governance Regulations. The internal auditor and chief financial officer must be members of ICPAK and the internal auditor must not be the compliance officer)		
	<ul style="list-style-type: none"> <li>▪ External Auditor</li> </ul>		
21.	Submission of a board charter that: <ul style="list-style-type: none"> <li>▪ confirms the Board's responsibility for adoption of strategic plans, monitoring operational performance, the determination of policies and processes that ensure the intermediary's risk management and internal controls;</li> <li>▪ reserves specific powers to itself and delegates other matters to the management of a market intermediary</li> <li>▪ provides a code of conduct that addresses conflict of interest relating to directors and management which shall be regularly reviewed and updated as necessary;</li> <li>▪ identifies the key risk areas that require regular monitoring.</li> </ul>		
22.	Submission of Code of Conduct and Code of Ethics set out in Part A and B respectively of the Third Schedule of the Regulations.		
23.	Comprehensive Curriculum Vitae of Directors and key personnel*		
24.	Duly filled and executed Fit & Proper Form for		



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	Directors and key personnel*		
25.	Police clearance Certificate for Directors and key personnel*		
26.	Clear separation of roles and responsibilities of the chairman and chief executive.		
27.	Have a policy for appointment of employees		
28.	Application fees (Kshs 2,500)		
29.	Any other conditions as may be specified by the Authority.		

\* Key personnel is defined in the Capital Markets Act as “a person who manages or controls the activities of a licensed or a regulated person and includes-

(a) the chief executive officer, chief financial officer, chief compliance officer, secretary to the Board, chief internal auditor or any manager; and

(b) any person who holds a position or discharges responsibilities of any person referred to in paragraph (a);”