

Securities (Alternative Trading Platform) Rules, 2016

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It is hereby notified that the Minister of Finance and Economic Development, in terms of section 118(6) of the Securities and Exchange Act [*Chapter 24:25*], has approved the following rules made by the Securities and Exchange Commission of Zimbabwe in terms of section 118(1):—

1. Title

These rules may be cited as the Securities (Alternative Trading Platform) Rules, 2016

2. Interpretation

(1) Unless provided for herein to the contrary, all words and expressions shall have the meanings assigned to them in the Securities and Exchange Act [*Chapter 24:25*] and any rules made thereunder.

(2) In these rules—

“Act” means the Securities and Exchange Act [*Chapter 24:25*]

“alternative trading platform” means any person—

- (a) that constitutes, operates, maintains, or provides an electronic market or otherwise provides a place or facility for bringing together—
 - (i) primary market issuers of securities and investors who wish to purchase securities;
 - (ii) secondary market sellers and buyers of securities;
 - (iii) primary issuers and buyers, and secondary sellers and buyers of any other securities as may be prescribed or approved by the Commission;

and

- (b) that does not—
 - (i) set rules governing the conduct of participants other than the conduct of such participants’ trading with the Platform; or
 - (ii) discipline or seek to control the participants other than by excluding them from trading;

“Board” means the persons appointed as directors of a Platform as in terms of these rules;

“Commission” means the Securities and Exchange Commission of Zimbabwe;

“Committee” means a committee of a Platform;

“member”, in relation to the Platform, means a dealer who is entitled or permitted to deal in securities on that platform;

“participant” means any person, organization or association apart from a recognized securities exchange or clearing house that has entered into a contractual agreement with

a Platform to access the Platform for the purpose of effecting transactions in securities or submitting, disseminating, or displaying orders on such Platform, including a customer, member or user thereon;

“person,” in relation to the Platform means a registered company in terms of the Companies Act [*Chapter: 24:03*];

“Platform” means a securities exchange which constitutes an alternative trading platform.

3. Application of Rules

(1) Every Platform shall be registered in terms of these rules as a lower securities exchange as provided in terms of section 29 of the Act.

(2) The Securities (Registration, Licensing and Corporate Governance) Rules, 2010, any amendments made thereto and any other rules made in terms of section 118 of the Act in relation to a securities exchange, shall, with necessary modifications, apply to and be read as part of these rules, except to the extent specified in these rules.

4. Requirements for registration as a Platform

(1) An application for approval to operate as a Platform shall be submitted to the Commission in the form and manner as prescribed by the Commission from time to time.

(2) An application for approval to establish a Platform shall be accompanied by –

- (a) documents specified in the application form;
- (b) acceptance procedure, trading, disclosure and business conduct rules;
- (c) a description of the types of securities that shall be traded on the system;
- (d) a written description of the software system or program that the Platform intends to use which shall include a flowchart showing the actual primary and secondary market transactions and a diagram or matrix showing its applications and functions;
- (e) proof of acquisition and implementation and testing of the automated trading; clearing , settlement and surveillance systems;
- (f) a written description of the hardware component and the communication facility of the system that shall include configuration, capacity, interconnection with other Platforms or other trading markets and the extent of its communication capability;
- (g) a description of the custodian or registrar of the proposed financial products that shall be traded on the system and any related systems that may be used;

- (h) a risk disclosure statement, discussing the risk factors involved in the operation of the market and the corresponding risks for each specific product that shall be traded in its market and shall include:
 - (i) process of identification of the risks;
 - (ii) a description of the risks involved;
 - (iii) assessment and valuing of risks; and
 - (iv) risk management;
- (i) a description of an independent risk control unit that shall be responsible for the design and implementation of the company's risk management system;
- (j) the business plan, which shall include a financial plan for the following twelve months or such longer period as the Commission may prescribe; and
- (k) any additional information that the Commission may require for the purpose of considering the application.

5. Platform Securities

- (1) Every Platform shall be limited to the trading of products that are approved by the Commission.
- (2) Every Platform shall obtain prior approval from the Commission for—
 - (a) any security proposed to be offered or traded on the Platform;
 - (b) the admission or delisting of any issuer;
 - (c) the suspension or termination of securities traded on the Platform

Provided, the Commission may impose other requirements or conditions for the registration of the Platform, as may be deemed necessary to protect the investing public.

6. Operational requirements

- (1) Every Platform shall provide fair access to its system and shall—
 - (a) establish written standards for granting or denying access to trading on its system;
 - (b) not unreasonably prohibit, discriminate or limit any person with respect to access to services offered by the Platform;
 - (c) file reports with the Commission on any grants, denials and limitations of access to the Platform within a period of two weeks of the event;
 - (d) ensure that all available information from issuers of the products being traded on the system is provided to the investors;
 - (e) codify initial offering procedure for all securities as approved by the Commission;

- (f) codify secondary trading procedures for all market participants and procedures as approved by the Commission; and
 - (g) ensure that securities dealers who are participants obtain the appropriate approvals from the Commission before they transact in the Platform for themselves or on behalf of customers.
- (2) Any securities dealer that engages in prohibited market practices or malpractices shall be subject to disciplinary action by the Commission in terms of the Act.
- (3) Any registered person who deals with a Platform shall be subject to directives and guidelines of the Commission.

7. Capacity, integrity, and security of automated systems

Every Platform shall, with respect to the systems that support order entry, order routing, order execution, clearing, settlement, transaction reporting, trade comparison and surveillance—

- (a) establish and locate the data centre of the Platform within Zimbabwe;
- (b) establish reasonable current and future capacity estimates;
- (c) set up and maintain a comprehensive set of online market monitoring system and make the monitoring system accessible to the Commission:

Provided that at no time shall the Platform represent to the participants and investors that the Commission's market monitoring activities shall reduce the risks described in the filling of the Risk Disclosure Statement;

- (d) conduct periodic capacity stress testing of critical systems in order to determine such systems' ability to process transactions in an accurate, timely and efficient manner;
- (e) develop and implement reasonable procedures to review and keep current its system development and testing methodology;
- (f) continuously review the vulnerability of its systems, data centre and computer operations to the internal and external threats, physical hazards, and natural disasters;
- (g) establish adequate contingency, disaster recovery, and back up disaster recovery plans;
- (h) on an annual basis, engage an independent review, in accordance with established audit procedures and standards, of the Platform's controls to ensure that provisions of this section are met.

8. Clearing and settlement

(1) Every Platform must submit for approval its procedures on the clearing and settlement of primary offerings, and the secondary trades.

(2) Every issuer shall ensure that all obligations arising from its issuance are met.

(3) Subject to its standard requirements, a Platform shall admit and register custodial institutions, and transfer secretaries to facilitate in the clearing and settlement of the securities.

(4) The custodial and transfer secretary records shall reflect the beneficial ownership of the securities.

(5) All the securities to be traded on a Platform must be dematerialized.

9. Procedures to ensure the confidential treatment of trading information

(1) Every Platform shall establish adequate safeguards and procedures to protect participants' confidential trading information. Such safeguards and procedures shall include—

(a) limiting access to the confidential trading information of participants to those employees of the Platform who are operating the system or responsible for its compliance with these or any other duplicate rules; and

(b) implementing standards for controlling affiliates of the Platform for their own accounts.

(2) Every Platform shall adopt and implement adequate oversight procedures to ensure that the safeguards and procedures established pursuant to this section are followed.

10. Reporting and other requirements

Every Platform shall make and keep current an operational report that contains the following—

(a) a record of participants that identifies any affiliations between and among participants to the Platform, including directors, officers or shareholders;

(b) daily trading summaries, in electronic form, including—

(i) securities for which transactions have been executed;

(ii) transaction volume, expressed with respect to equity securities in;

A. number of trades;

B. number of securities traded; and

C. total settlement value;

(iii) transaction volume, expressed with respect to debt securities in;

A. number of trades; and

B. total value;

(c) time sequenced records of order submission and execution information in the Platform, including;

- (i) date and time, expressed in terms of hours, minutes and seconds, the order was received;
- (ii) the security (share) code;
- (iii) the number of shares or contracts, or the principal amount of fixed-income instruments to which the order applies;
- (iv) the designation of the order as a buy and sell order;
- (v) the designation of the order as a short sale order;
- (vi) the designation of the order as a market order, limit order, or any other type of order;
- (vii) the limit or stop price prescribed by the order;
- (viii) the date on which the order expires and if, the limit in force is less than one day, the time when the order expires;
- (ix) the time limit which the order is in force;
- (x) any instruction to modify or cancel the order;
- (xi) the type of account, that is to say, retail, wholesale, affiliate, proprietary, or any other type of account designated by the Platform, for which the order is submitted;
- (xii) the date and time (expressed in terms of hours, minutes and seconds) that the order was executed;
- (xiii) the price at which the order was executed;
- (xiv) the size of the order executed (expressed in number of shares or units or principal amount); and
- (xv) the identity of the parties to the transaction.

11. Other continuing reporting requirements

- (1) Every Platform shall be required to submit the following reports to the Commission—
 - (a) audited financial statements, which shall be due within ninety days after the end of the financial year;
 - (b) reports on Material System Errors which shall be due within twenty four hours of such errors occurring;
 - (c) any such other report as maybe required by the Commission.
- (2) Every Platform shall obtain prior approval from the Commission at least twenty-one days prior to implementing a material change to its operations. A material change to the system shall include, but not limited to:
 - (a) changes in the location of the data centre of the Platform;

- (b) changes to the system's capacity;
- (c) changes in the Platform's online market monitoring system;
- (d) changes to the system's methodology of processing transactions;
- (g) changes to the system's contingency, disaster recovery, and back up recovery plans.

12. Record preservation requirements for Platform

(1) Every Platform shall preserve the following records for a period of not less than seven years, in an easily accessible place—

- (a) all procedures and manuals required to be made pursuant to these rules;
- (b) all rules, notices provided by the Platform to participants generally, whether written or communicated through automated means, including, but not limited to, notices addressing hours of system operations, system malfunctions, changes to the system procedures, maintenance of hardware and software, instructions pertaining to access to market denials of, or limitations on and access to the Platform;
- (c) all grants of access including, for all participants, the reasons for granting such access;
- (d) all denials or limitations of access and reasons, for each applicant, for denying or limiting access; and
- (e) any documents made or received by the Platform in the course of complying with the requirements set out in these rules, including all correspondence, memoranda, papers, books, notices, accounts, reports, test scripts, test results, and other similar records.

(2) Every Platform shall throughout its whole life preserve—

- (a) all articles of incorporation, by-laws and their amendments, minutes of meetings, stock and transfer book, and all other corporate records; and
- (b) all copies of reports filed with the Commission.

(3) The records that shall be maintained and preserved by a Platform shall be produced, reproduced, and maintained in paper form or in any form permitted by the Commission; and shall be furnished to the Commission promptly upon request, in eligible, true and complete copies of those records.

13. Permission to trade on the Platform

Every Platform shall be required to submit to the Commission for approval, an effective screening mechanism that would ensure that only persons who are permitted to deal in securities on the Platform are allowed to buy or sell securities through the system.

14. Fees and levies

(1) Any levies in connection with every Platform shall be payable not later than close of business on the Friday of the week after the week in which the purchase, sale or exchange of securities on which the levy is calculated was concluded. If the Friday is a public holiday, the next Monday shall be the last day.

(2) The charges applicable to transactions at a Platform are as set out in Table 1.

Table 1

Type of charge	Buying %	Selling %
Brokerage fees	0.9200	0.9200
Securities and Exchange Commission Levy	0.1600	0.1600
Platform Levy	0.1000	0.1000
Central Securities Depository Levy	0.1000	0.1000
Stamp Duty	0.2500	-
Capital Gains Withholding Tax	-	1.0000
Investor Protection Levy	0.025	0.025
Vat @ 15% on Brokerage	0.1380	0.1380
Total transaction costs	1.693	2.443
Total costs for buying and selling	4.136	

(3) Every Platform shall pay a levy of nought comma five per centum (0.5%) of its monthly gross income, and shall remit it to the Commission by not later than the tenth day of the month following the month in respect of which the levy is paid. If the tenth day is not a business day, the next business day shall be the last day.

(4) Any charges or levies levied to the investing public and participants or traders by the Platform shall be approved by the Commission.

(5) The initial registration fee for a Platform shall be USD\$ 5,000

(6) The annual renewal fee of registration for a Platform shall be USD\$ 4, 000.

15. Issues to be determined by the Commission

(1) The following requirements shall be determined by the Commission, taking into consideration the nature, size and securities to be traded on the Platform—

- (a) the capital requirements;
- (b) the composition of Boards and their committees, provided that every Platform shall have a minimum of 5 board members; and
- (c) shareholding structure.

(2) The Commission shall without delay notify the Platform concerned, in writing of the requirements it has determined for the Platform in terms of subsection (1).

(3) The Commission shall ensure that a Platform for which it has determined the requirements in terms of subsection (1) is given reasonable time within which to comply with them.

16. Assumption of Platform responsibilities

(1) The Commission may assume responsibility for one or more of the regulatory or supervisory functions of a Platform if the Commission considers it necessary in order to achieve the objectives of the Act referred to in section 4 of the Act.

(2) The Commission shall, before assuming responsibility for a function as contemplated in subsection (1)—

- (a) inform the Platform of the Commission's intention to assume responsibility;
- (b) give the Platform the reasons for the intended assumption; and
- (c) call upon the Platform to show cause within a period specified by the Commission why responsibility should not be assumed by the Commission.

17. Corporate governance

Every Platform shall prepare and submit to the Commission a manual on Corporate Governance in accordance with the Principles of Good Corporate Governance as provided in the Securities (Registration, Licensing and Corporate Governance) Rules, 2010.

18. Taxes

Every Platform shall be responsible for entering into an appropriate arrangement with the Platform's participants, securities dealers, customers, clearing and settlement agents, and other relevant parties to ensure the proper and timely collection of taxes.

19. Preservation of records

All records of the Platform shall be maintained for a period of a minimum of 7 years.

20. Contravention of rules

Any person who contravenes any provisions of these rules shall be guilty of an offence and liable to a fine not exceeding level five or imprisonment for a period of six months or both such fine and such imprisonment.