THE UNITED REPUBLIC OF TANZANIA

No. 4 of 1997

I ASSENT,

Benjamin W. Mkapa

President

4th April, '97

An Act to Amend Capital Markets and Securities Act, 1994.

[....]

Enacted by the Parliament of the United Republic of Tanzania.

Short Title and Construction

1. This Act may be cited as the Capital Markets and Securities (Amendments) Act, 1997 and shall be read as one with the Capital Markets and Securities Act, 1994.

Amendment of S. 2

2. Section 2 is amended by—

(i) inserting immediately after the phrase "otherwise requires" "advertisement" includes every form of advertising whether in a publication, brochure, handout, by letter head, by display of notice, circular or other documents by exhibition of photographs or cinematography films or videos, or by sound broadcasting or television broadcasting or distribution of recordings or in any other manner",

(ii) inserting immediately after the definition of the word "book" the following phrase—

"collective investment Scheme" means—

(a) an open-ended investment company;

(b) a unit trust scheme;

(c) such other arrangements being arrangements with respect to property of any description, including money, the purpose or effect of which is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income; and

(d) any other scheme or arrangement deemed by the Authority to be a collective investment scheme for the purposes of this Act";

(iii) insert immediately after the definition of the term "investment adviser" the following term-

"investment company means a body corporate, which has its purpose the investment of its funds with the aim of spreading investment risk and giving its members the benefit of the results of the management of those funds by or on behalf of that body."

(iv) inserting immediately after the definition-of the title "Minister" the following phrase-

"open-ended investment company" means a body corporate-

(a) which has as its purpose the investment of its funds with the aim of spreading investment risk and giving its members the benefit of the results of the management of those funds by or on behalf of that body; and

(b) the members in which have rights represented by shares or securities of that body which-

(i) those members are entitled to have redeemed or purchased from them by, or out of funds provided by, that body; or

(ii) the body ensures it can be sold by the members on an investment exchange at 6, price related to the value of the property to which they relate.

(v) inserting immediately after the definition of the words "prescribed interests"-

"Prospectus" means any prospectus, notice, circular, advertisement or other invitation offering to the public for subscription or purchase any shares or debentures of company and includes a prospectus in respect of the issue of any other security;

(vi) inserting immediately after the definition of the term "prospectus" the following term-

"public company" means a company whose articles of association do not restrict the right to transfer its shares, do not limit the number of its members and do not prohibit any invitation to the public to subscribe for any shares or debentures of the company";

(vii) in paragraph (c) of the definition of "securities" by deleting the words "unit trust" and substituting for them the phrase "collective investment scheme" and in paragraph (d), by inserting words "rights, interests or " between the phrase "such other" and the word "instruments",

(viii) inserting immediately after the definition of the term "securities' the term-

"securities business" means the business of dealing in or advising on securities and includes such other activity as may be prescribed."

3. Section 25 is amended by:- Amendment of S. 25

(a) adding the following new provision-

"(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both fine and imprisonment"

(b) renumbering section 25 as subsection (1) of section 25 and the new subsection (2) as subsection (2)",

4. Section 32 is amended by adding the following new subsection- Amendment of S. 32

'(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both fine and imprisonment."

5. Section 33 is amended by- Amendment of S. 33

(a) adding the following new provision-

"(2) Any person who -contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both fine and imprisonment

(b) renumbering section 33 as sub-section (1) of section 33.

6. Section 34 is amended by- Addition of Subsections (2) and (3)

(a) adding the following new provisions-

"(2) Any person who contravenes subsection (I) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both fine and imprisonment"

(b) "(3) A licence granted under sub-section (1) shall not authorize any dealing in securities by the holder."

(c) renumbering section 34 as subsection (1) of section 34.

7. Section 35 is amended by-

(a) adding the following new provision-

"(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both fine and imprisonment. "

(b) renaming section 35 as subsection (1) of section 35.

Amendment of S.38

8. Section *38* is amended by-

(a) adding the following provision-

"(1) A representative's license shall be granted only to an individual.

(b) renumbering section *38* as subsection (2) of section *38.*

Addition of Subsection (4)

9. Section *48 is* amended-

(a) in subsection (1), by deleting the phrase "or to renew a licence or of revoking"

(b) by adding new subsection (4)-" Any person who is aggrieved by a decision of the Authority refusing to renew a licence or revoking a licence may appeal to the High Court within thirty days of such decision"

Amendment of S.49

10. Section *49* is amended by-

(a) renaming section 49 as subsection (1);

(b) deleting paragraphs (a), (c) and (d))

(c) renumbering paragraphs (b) as (a) and (e) as (b);

(d) by adding the following new provision-

"(2) An exempt dealer shall be exempted the requirement of holding a dealer's licence under this Act and may, subject to subsection *(3)* and any conditions or restrictions as may be prescribed, carry out dealing in securities on his own account and on behalf of any third party."

"(3) An exempt dealer shall, in respect of any transactions of dealing in securities carried out or performed by the exempt dealer on behalf of any third party, be subject to all obligations, requirements and duties imposed upon a dealer under this Act **other** than the requirement to hold a dealer's licence,"

Amendment of S. 50

11. Section 50 is amended by deleting the phrase "investment rep**resentative"** which appears in paragraph (c) of subsection (1) and substituting for it the phrase "investment adviser"

Addition of subsections (3) and (4)

12. Section 51 is amended by adding the following new subsections-

(3) Where there is a change in the interest or interests in securities of a person to whom this Part applies he shall, within 7 days after the date of the change enter in the register full particulars of the change -including the date of change which and the circumstances by reason of which that change has tion occurred; and for the purposes of this subsection, where a be c person acquires or disposes of securities, there shall be deemed to be change in the interest or interests of that person in the securities concerned";

"(4) A person who fails to keep a register as required by this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both fine and imprisonment."

13. Section 52 is amended- Amendment of S. 52

(a) in subsection (4) by deleting the phrase "and in addition, to a further fine of not less than fifty thousand shillings for every day the contravention continues after conviction";

(b) inserting a full-stop immediately after the term "Authority" which appears in subsection (4);

(c) in subsection (5) by deleting the full stop that appears at the end of that subsection and adding the following phrase-

"and in addition, to a further fine of **not less than of not less** than fifty thousand shillings for every day for which the contravention continues after conviction"

14. Section 60 is amended- Amendment of S. 60

(a) by inserting the word "investment" between the words "An" and "adviser" which appear in subsection (1);

(b) by deleting the word "not" which appears immediately after the first appearance of the words "subsection (1) is";

(c) by deleting the full-stop at the end of that subsection and by inserting the following phrase "and shall be liable on conviction to a fine of not exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years or to both fine and imprisonment"

(d) "in subsection (3), delete the word "not" which appear after the word "is" and add at the end "and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both fine and imprisonment."

15. Section 66 is amended in subsection (1) by inserting between the words "licence" and "whether in Tanzania or elsewhere" the following phrase- Amendment of S. 66

"or subject to section 49, by an exempt dealer."

16. Section 68 is amended by repealing subsection (5) and replacing it with the following- Repeal and replacement of subsection (5)

"(5) A dealer who fails to comply with subsection (4) commits an offence and shall be liable on conviction to a fine of not less than five hundred thousand shillings or to imprisonment for a term, not less than two years or to both fine and imprisonment"

Amendment of S. 114

17. Section 114 is amended in subsection (1) by inserting the phrase "or an exempt dealer or exempt dealers" between the words "who holds dealers licenses" and "to establish and maintain"

Addition of Parts X1, X11 and XIII

18. The principal Act is amended by inserting the following new provisions immediately after Part X.

"PART XI

COLLECTIVE INVESTMENT SCHEMES

"Authorization and regulation of schemes

115.-(I) The Authority may authorize collective investment schemes for the purposes of this Part.

(2) Any such authorization may be granted subject to such terms and conditions as the Authority considers to be necessary or desirable for the protection of investors.

(3) The Minister may make regulations for or with respect to-

(a) the criteria for and conditions of any authorization for the purposes of this Part;

(b) the establishment and operation of a collective investment scheme;

the promotion, marketing and distribution of shares units or other securities representing the rights or interests of participants in a collective investment scheme;

(d) the administration of collective investment schemes;

(e) the provision by any body corporate or individual of trustee, custodial and related services, or any other services, for or in connection with collective investment schemes.

(4) Without limiting the generality of subsection (3), regulations made for the purposes of that subsection with respect to any aspect of or matter concerning a collective investment scheme may be made to differ according to whether the scheme is operated by a unit trust or by an open-ended investment company or another kind of investment company.

(5) A person who enters into or offers to enter into any agreement for or with a view to acquiring, disposing of or subscribing for any shares units or other securities representing an interest in a collective investment scheme that is not authorized under this Part, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or to both.

"Restriction of promotion

116. A person who--

(a) issues or causes to be issued any advertisement or invitation inviting persons to become or offer to become participants in a collective investment scheme that is not authorized under this Part or containing information calculated to lead directly or indirectly to persons becoming or offering to become participants in such a scheme; or

(b) advises or procures any person to become or offer to become a participant in such a scheme; shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or both.

"Authorized collective investment scheme

117. No person shall set up or manage any collective investment scheme in Tanzania unless-

(a) the scheme is authorized by the Authority; and

(b) the manager and trustee/custodian of the scheme are-

(i) authorized by the Authority, upon application made in writing to act as manager or trustee/custodian, regard being had to their financial standing, their knowledge and experience of investment business and their honesty and integrity;

(ii) corporate bodies designated as such in the scheme; and

(iii) independent of each other.

"Application to operate a collective investment scheme

118.-(l) Every person who proposes to set up or operate a collective investment scheme in Tanzania shall make an application to the Authority.

(2) No application shall be made by any person unless he is the Manager or trustee or custodian or the proposed manager or trustee or custodian of the scheme.

(3) Every application shall be made in such form and contain such information as the Authority may determine or as may be prescribed.

(4) Authority may-

(a) call for such additional information as it may require for any purpose under this Part; and

(b) direct that any information supplied shall be verified in such manner as it may require.

Qualifications of trustee or custodian

119.-(1) Subject to subsection (2), the trustee or custodian shall-

(a) be a statutory body or a company incorporated in Tanzania;

(b) have and maintain at all times an issued and paid-up capital of not less than such amount as may be prescribed;

(c) satisfy the Authority upon request and from time to time that it has assets which are sufficient to meet its expenses and liabilities, including liabilities in respect of the repayment of capital.

(2) Where the capital of a trustee or custodian is held by another corporation, it shall be sufficient for the purposes of this section that the holding corporation has and maintains at all times capital and assets which comply with subsection (1) (b) and (c).

"Publication of scheme particulars

120.-(I) The Manager shall publish information about the scheme, to be known as scheme particulars, under such conditions and in the manner as may be prescribed.

(2) Any person designated as responsible for any scheme particulars shall pay compensation, under such conditions and in the manner as may be prescribed, to any person who has become or agreed to become a participant in the scheme and suffered loss as a result of any untrue or misleading statement in the particulars or the omission from them of any prescribed matter.

(3) Subsection (2) shall not affect any liability which any person may incur otherwise than that prescribed under this section.

Publication of alterations particulars

121.-(I) The manager shall give written notice to the Authority of any proposed alteration to the scheme or any proposal to replace the trustee or custodian.

(2) The trustee or custodian shall give written notice to the Authority of any proposal to replace the manager.

(3) No alteration to a scheme or change of manager or trustee/custodian shall be effected without the approval in writing of the Authority.

(4) The Authority shall not give its approval unless-

(a) it is satisfied that the proposed alteration will not affect the compliance of the scheme with the requirements of this Act and any regulations made under it; and

(b) the new trustee or custodian or manager, as the case may be, satisfies the requirements of this Act and any regulations made under it.

"Revocation of approval

122.-(1) -The Authority may, revoke the approval of a collective investment scheme or parts thereof if-

(a) any of the requirements for granting the approval are no longer satisfied;

(b) it is undesirable in the interests of the investors or unit holders or part thereof in the scheme that it should continue to be authorized;

(c) without prejudice to paragraph (b), the manager or the trustee or custodian has contravened any provision of this -Act- or any regulations made under it or, in purported compliance with any such provision, has furnished false, inaccurate or misleading information, or contravened any prohibition; or

(d) a request for revocation has been made by the man--ager or the trustee or custodian.

(2) For the purposes of subsection (1) (b) the Authority may take into account any matter relating to the scheme, the manager or trustee or custodian, a director or officer of the manager or trustee or custodian or any person employed by or associated with the manager or trustee or custodian in connection with the scheme.

(3) Before revoking an approval or refusing to do so, the Authority shall give the manager' or the trustee/custodian, as the case may be, an Opportunity to make such representations as he may wish to make.

(4) Any person who is aggrieved by the decision of the Authority made pursuant to subsection (1) may appeal to the High Court, within 30 days of the decision,

(5) The High Court may confirm the revocation or give such directions in the manner it may deem proper or otherwise determine the matter.

-Investigation

123.--(I) The Authority may appoint one or more inspectors to investigate and report on the administration of any scheme if it appears to the Authority that-

(a) it would be in the interests of investors or unit holders or potential unit horders in the scheme to do so; and

(b) The matter is one of public concern.

(2) An inspector appointed under subsection (1) shall have all the powers of an inspector appointed under the Companies Ordinance.

(3) The expenses of any investigation under this section shall be borne by the collective investment scheme which is investigated.

"Directions of the Authority

124.-(1) The Authority may, for any of the reasons specified in section 123 (1) issue a direction in writing requring-

(a) the manager to cease the issue or redemption, or both

(b) the manager and trustee/custodian to wind it up by such date is specified in the direction or, if no date is specified, as soon as practicable.

(2) The revocation of the approval of a scheme shall not affect the operation of any direction under subsection (1) which is then in force.

the issue and redemption, of units or other rights or interests of investors under the scheme on a date specified in the direction until such further date as is specified in that or another direction.

"Injunctions

(a) grant an injunction: restraining the contravention of any provision of this Part or any regulation made under it where there is reasonable likelihood that any person will contravene or repeat the contravention of any such provision; or

(b) make an order, where appropriate, requiring that person or any other person who appears to the Court to have been knowingly concerned in the contravention to take steps as the Court may direct to remedy it.

(2) The Court may, on the application of the Authority, make an order under subsection I(b) if satisfied-

(a) that profits have accrued to any person as a result of his contravention of any provision mentioned in subsection (1)(a); or

(b) any, such accounts or information as are mentioned in paragraph (a) to be verified in such manner as it may direct.

"Restitution Order

126.--(l) The Court **may, on an application made** under section 125(l) also order the person concerned to pay into court, or appoint a receiver to recover from him, such sum as appears, to the Court to be just, having regard to the facts of the case.

(2) Any amount paid into Court' by or recovered from a person in pursuance of an order under subsection (1) shall be paid out to such person or distributed among such persons as the Court may direct, being a person or persons appearing to the Court to have entered into transitions with that person as a result of which profits have accrued or, as the case may be, loss or adverse effect has been suffered as mentioned in section 125 (2).

(3) Nothing in this section or section 125 shall affect the right of any person other than that Authority to bring proceedings in respect of the matters to which this section or section 125 applies.

"Application to Court

127.-(l) In case in which the Authority has power to give a section under section 125 in relation to collective investment scheme, including a scheme which has ceased to be an authorized scheme, the Authority may apply to the Court-

(a) for an order removing the manager or trustee/custodian of the scheme or both of them and replacing either or both of them by a person or persons nominated by the Authority and appearing to the Authority to satisfy the requirements of this Part and any regulations made thereunder;

(b) if it appears to the Authority that no person or no suitable person satisfying those requirements is available, for an order removing the manager or trustee/custodian, or both of them, and appointing a receiver to wind up the scheme.

(2) On an application under this section, the Court may make such order as it thinks fit and on the application of the Authority, rescind an order made under subsection (1)(b) and substitute such an order as is mentioned in subsection (1) (a).

(3) Subsection (2) shall not apply to a receiver appointed by an order made under subsection (1) (b).

"Submission of Reports

128.-(1) The Manager shall submit an annual report of a collective investment scheme to the Authority within three months of the closing of accounts in every year and such other periodic information, returns and reports as may be prescribed.

(2) The Annual Report shall contain the following-

(a) the manager's investment report;

(b) a statement of assets and liabilities; (c)

a statement of income and distribution;

(d) a copy of the auditor's report on the accounts of the scheme; and

(e) such other particulars as the Minister may prescribe.

(3) Without prejudice, to subsection (1), the Manager and Custodian of a collective investment scheme shall furnish to the Authority such periodic reports, returns and information on the activities and operations of the scheme as may be prescribed.

"Offences

129. Subject to sections 115 and 116 any person who contravenes any provisions of this Part or any regulation made under it shall commit an offence and shall, on conviction be liable to a fine not exceeding five hundred thousand shillings and to imprisonment for a term not exceeding two years or both the fine and imprisonment.

PART X11

PUBLIC OFFERS OF SECURITIES

"Advertisements

130. For the purposes of this Part, an advertisement publicly offers securities if-

(a) it invites a person to enter into an agreement for or with a view to subscribing for or otherwise acquiring or underwriting any securities; or

(b) it contains information calculated to lead directly or indirectly to a person entering into such an agreement.

"Prospectus to be approved by Authority

131. Subject to subsection (2), no person shall issue or cause to be issued in Tanzania an advertisement publicly offering any securities unless the issuer or offeror of such securities has submitted for approval to the -Authority, and the Authority has approved, a prospectus which complies with the requirements of this Part.

"Contents of prospectus

132.-(I) The Authority shall not approve a prospectus unless-

(a) it contains all such information as investors and their professional advisers would reasonably require, and reasonably expect to find there, -for the purpose of making an informed assessment of-

(i) the assets and liabilities, financial position, profits losses, and prospects of the issuer of the securities; and

(ii) the right attaching to those securities; and

(b) it contains in addition such other information and particulars, and complies with such other requirements, as may be prescribed by regulations made under this Act.

Cap. 212

(2) The requirements of subsection (1) are in addition to those provided in the Companies Ordinance in relation to the contents of prospectuses

"Compensation

Cap 212

133.--(I) Every director of an issuer shall be liable to pay compensation to any person who has acquired any of the securities in question and suffered loss in respect of them as a result of any untrue or misleading statement in the prospectus or the omission from the prospectus of any matter required to be included by or under section 132.

(2) For the purposes of subsection (1), acquisition by any person of securities includes the contracting to acquire them or to have an interest in them.

134.--(1) Every issuer of securities that are the subject of a public offer or which are publicly held, shall keep the Authority, members of the issuer and other holders of its seeurities informed as soon as reasonably practicable of any information relating to the issuer and its subsidiaries if any, that-

(a) is necessary to enable them and the public to appraise the financial position of the issuer and of its subsidiaries;

(b) might reasonably be expected materially to affect market in its subsidiaries; or

(c) might reasonably be expected materially to affect market activity in the price of its securities.

(2) For the purposes of this section, securities are publicly held if the issuer has more than fifty holders of its securities.

(3) In addition to the requirements of-subsection (1), every such issuer shall also comply with such further obligations and requirements as may be prescribed by regulations made under this Act.

(4) For the avoidance of doubt this section applies to the issuer of securities publicly held prior to the coming into operation of this Act.

(5) An issuer of securities that fails or neglects to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred thousand."

PART X111

ADVERTISEMENTS RELATING TO SECURITIES BUSINESS

135.-(I) An advertisement for offer of any services in relation to securities business may not be published by any person other than a licensed dealer's representative, investment adviser, investment representative or exempt dealer.

(2) Any person who intends to publish an advertisement for offer of any services in securities business shall register a copy of the advertisement with the Authority seven days prior to its submission for publication.

(3) Every advertisement offering any services in relation to securities business shall include such particulars and information as may be prescribed under this Act or as the Authority may direct.

(4) The Authority may, after consultation with a person who intends to publish an advertisement direct that the proposed advertisement be amended and, where such direction is given, the advertisement shall not be published without compliance with such amendment.

Provided that where a proposed advertisement has been registered with the Authority pursuant to the provisions of subsection (2), the Authority shall within seven days indicate to the person who has registered the advertisement whether it has any particulars or information to be prescribed.;

(5) Any person who fails to comply with the provisions of this sections commits an offence and shall be liable on conviction to a fine of not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding one year or to both the fine and imprisonment.;

136.-(1) An advertisement for offer of any securities may not be published by any person other than a licensed dealer, dealer's representative, exempt dealer or, in relation to its securities, by the public company concerned.

(2) Subsection (1) shall not apply to advertisements relating to Government securities published by a recognized agency of the Government.

(3) Every advertisement offering securities shall be registered with the Authority fourteen days prior to publication and shall comply with such requirements as may be prescribed.

(4) A licensed dealer, dealers representative, exempt dealer or public company may publish an advertisement in a newspaper of general circulation in Tanzania approved by the Authority attracting the attention of the public to the publication of a prospectus provided that the advertisement is limited to indicating-

(a) the name of the company;

(b) that a prospectus has been issued in accordance with this Act; and

(c) the address where the prospectus may be obtained.

(5) The Authority may after consultation with a person who intends to issue a prospectus and direct that a proposed prospectus be amended and, where such direction is given, the prospectus shall not be published without compliance with such amendment"

Provided that where a proposed advertisement offering securities or a prospectus has been submitted to the Authority, the Authority shall within fourteen days indicate to the person who registered the advertisement offering securities or intends to issue a prospectus whether it has any particulars or information to be prescribed.;

(6) Any person who fails to comply with the provisions of this sections commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both fine and imprisonment.

19. The principal Act is amended by-

(a) renaming Part XI as "Part XIV";

(b) renumbering sections thereof as follows-

(i)	115	as	137
(ii)	116	as	138
(iii)	117	as	139
(iv)	118	as	140
(v)	119	as	141
(vi)	120	as	142
(Vii)	121	as	143
(Viii)	122	as	144
(ix)	123	as	145
(X)	124	as	146

(xi)	*125*	as	147
(Xii)	*126*	as	148
(Xiii)	*127*	as	149
(xiv)	*128*	as	150

20. The renamed section 148 is amended-

(a) by repealing subsection (1) and replacing for it the following new provision-

"(1) The Minister may make regulations for or with respect to any matter which under this -Act is required or permitted to be prescribed, or which is necessary or convenient to be prescribed for better carrying out or for, giving effect to this Act. "

(b) in subsection *(2),* by adding the following new paragraphs:-

(g) the conduct of business by dealers; exempt dealers, investment advisers and their representatives;

(h) the regulation of collective investment schemes;

(i) the terms and conditions of licences or any approval or authorisation under this Act.

(j) matters incidental to the licensing of any persons or grants of any approval and authorisation under this Act;

(k) the form and content of accounts to be maintained and financial statements to be prepared by dealers, exempt dealers, investment advisers and their representatives and submitted to the Authority.

(c) by adding the new subsection immediately after subsection (3)-

' '(4) Except as otherwise expressly provided in this, the regulations-

(a) may be of general or specifically limited application; and

(b) may impose a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years or to both fine and imprisonment for any contravention."

21. The Act is amended by adding the following new provision-

The Companies Ordinance is amended:-

(a) by inserting immediately after the definition of "articles .

"Capital Markets and Securities Authority" means the Authority established by section 6 of the Capital Markets and Securities Act, 1994";

(b) by inserting immediately after the definition of "offer":—

"open-ending investment company" means a body corporate:—

(a) which has as its purpose the investment of its funds with the aim of spreading investment risk and giving its members the benefit of the results of the management of those funds by or on behalf of that body; and

(b) the members in which have rights represented by shares of securities of that body which:—

(i) those members are entitled to have redeemed or purchase from them by, or out of funds provided by that body; or

(ii) the body ensures can be sold by the members on an investment exchange at a price related to the value of the property to which they relate";

(c) by repealing subsection 35 (2A).

(d) deleting the phrase "and where the Registrar has, pursuant to subsection (2A) referred the prospectus to the Capital Markets and Securities Authority for its opinion, the Authority has approved the prospectus" which appears at the end of subsection 35(3) and substituting therefore the phrase "and the prospectus has been approved by the Capital Markets and Securities Authority";

(e) by deleting the word "and" which appears between the words "dated", and the words "the copy thereof" which appears in subsection 35(3)";

(f) by inserting new section 56(4) as follows:—

(4) Sections 56(1), 57, 58, 59 and 60 shall not apply to an open ended investment company whose establishment has been duly authorised under the Capital Markets and Securities Act, 1994.

Passed in the National Assembly on the 29th January, 1997.

Clerk of the National Assembly

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