GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT No. 32 of 2021

The Securities Act, 2016

(Act No. 41 of 2016)

The Securities (Capital Markets Tribunal) Rules, 2021

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FIRST SCHEDULE

SECOND SCHEDULE

IN EXERCISE of the powers contained in sections 188, 190, 192 and 195 of the Securities Act, 2016, the following Rules are made:

PART I
PRELIMINARY PROVISIONS

1. These Rules may be cited as the Securities (Capital Markets Tribunal) Rules, 2021. Title

2. In these Rules, unless the context otherwise requires— Interpretation

"advocate" has the meaning assigned to the word "practitioner" in the Legal Practitioners Act; Cap. 30

"Chairperson" means the Chairperson of the Tribunal appointed under the Act;

"decision" includes an award, order, a ruling or judgment of the Tribunal or Registrar;

"disciplinary proceedings" means disciplinary proceedings under section 209(5) of the Act;

"interlocutory appeal" means an appeal against a decision made by the—

(a) Registrar on an interlocutory application;

(b) Tribunal on an interlocutory application; or

(c) Tribunal on an appeal against a decision of the Registrar;

"interlocutory application" means an application made between the commencement and theconclusion of proceedings, and includes an application for permission to file originating process out of time;

"matter" means an appeal, interlocutory appeal, originating application or interlocutory application;

"member" means a member of the Tribunal under the Act;

"originating application" means an application commencing—

(a) market misconduct proceedings;

(b) disciplinary proceedings; or

(c) any matter other than an appeal, an interlocutory application or an interlocutory appeal;

"originating process" means an appeal or originating application;

"Registrar" means a Registrar of the Tribunal appointed under the Act; and

"Vice-Chairperson" means the ViceChairperson of the Tribunal appointed under the Act.

Practice and procedure

3. (1) The jurisdiction vested in the Tribunal shall, as regards practice and procedure, be exercised in accordance with—

(a) the Act, these Rules or other written law; or

(b) orders or directions of the Tribunal that may be made under the Act or other written law.

(2) The practice and procedure applicable in the Court shall apply, with necessary changes, where the Act and these Rules or other written law do not provide for the manner in which the Tribunal may exercise its jurisdiction relating to practice and procedure.

PART II

ADMINISTRATION

Registries

4. (1) There is established the Principal Registry of the Tribunal at Lusaka.

(2) The Chairperson may, by notice in the *Gazette*, establish district registries for the provinces or districts set out in the notice, in which originating process and other proceedings may be filed.

(3) The Chairperson may, by notice in the *Gazette*, vary or revoke a notice issued in accordance with subrule (2).

(4) The Chairperson may, by notice in the *Gazette*, permit electronic filing of originating process and other proceedings in a manner that substantially conforms to the efiling rules applicable in the Court.

Additional functions of Registrar

5. (1) The Registrar shall, in addition to the functions under section 188 of the Act—

(a) receive, register and assign a reference number to each appeal or originating application filed;

(b) issue and serve notices and summonses;

(c) subject to the Act and these Rules, hear and determine interlocutory applications;

(d) tax bills of costs;

(e) keep and maintain a register each for—

(i) appeals, in which shall be

entered particulars of each appeal filed;

(ii) originating applications, in which shall be entered particulars of originating applications; and

(iii) decisions;

(f) keep and maintain records of proceedings;

(g) receive documents on behalf of the Tribunal; and

(h) receive and attend to correspondence.

(2) The Registrar may designate officers to discharge administrative functions of the Registrar.

PART III

COMMENCEMENT OF PROCEEDINGS

General title of proceedings

6. Proceedings shall be titled as specified in Form I set out in the First Schedule.

Commencement of appeal

7. (1) Subject to rule 10, a person dissatisfied with a decision of the Commission may, within thirty days of receipt of the decision, and on payment of the fee specified in the Second Schedule, commence an appeal by filing a minimum of nine copies of—

(a) a notice of appeal in Form II set out in the First Schedule;

(b) an affidavit in support of the appeal exhibiting relevant documents, including the decision appealed against; and

(c) skeleton arguments.

(2) An appellant shall, within five days of filing the appeal, serve the appeal on the Commission.

Commencement of originating application

8. (1) A person that intends to commence an originating application shall, on payment of the fee specified in the Second Schedule, file a minimum of nine copies of—

(a) an originating notice of motion in Form III set out in the First Schedule;

(b) an affidavit in support of the originating notice of motion; and

(c) skeleton arguments.

(2) An affidavit in support of an originating notice of motion relating to market misconduct proceedings shall state—

(a) the details of the conduct considered to constitute market misconduct; and

(b) where applicable, the amount of profit gained or loss avoided as a result of the conduct considered to constitute market misconduct.

(3) An originating application shall be filed within thirty days of the coming into existence of the circumstances entitling the person to commence the application.

(4) Despite subrule (3), market misconduct proceedings shall be commenced within thirty days of the Commission becoming aware of the conduct which the Commission considers to constitute market misconduct.

(5) A person that files an originating application shall, within fourteen days of filing the application, serve a copy of the application on the respondent.

Rejection of originating process

9. (1) The Registrar shall not accept originating process if—

(a) subject to rule 10, the originating process is filed after the expiry of the period specified in the Act or these Rules for filing the process;

(b) the originating process does not comply with the requirements of rule 7 or rule 8; or

(c) the originating process is in respect of a matter for which the Tribunal has no jurisdiction.

(2) The Registrar shall, within fourteen days of the filing of originating process referred under subrule (1), notify the person that filed the process of the Registrar's refusal to accept that process.

(3) The notification referred under subrule (2) shall be in writing, setting out the reasons for the refusal.

Appeal or originating application out of time

10. (1) A person may, where the period for commencing an appeal or originating application has expired, apply to the Registrar for permission to commence the appeal or originating application out of time.

(2) An application under subrule (1) shall be made by filing four copies of—

(a) summons in Form IV set out in the First Schedule;

(b) an affidavit stating the reasons for not filing the originating process within the prescribed period; and

(c) skeleton arguments.

(3) An applicant shall, within five days of filing an application under this rule, serve a copy of the application on the respondent.

(4) A respondent that intends to oppose an application made under this rule shall, within fourteen days of being served with a copy of the application file four copies of—

(a) an affidavit in opposition to the application; and

(b) skeleton arguments.

(5) A respondent shall serve the affidavit in opposition on the applicant within five days of filing that affidavit.

(6) An applicant may, within five days of being served with an affidavit under subrule (4), file an affidavit in reply.

(7) An applicant that files an affidavit in reply as provided in subrule (5) shall serve the affidavit on the respondent within five days of filing the affidavit.

(8) The Registrar shall, within fourteen days of the filing of the last process under this rule, set the date of hearing the application and notify the parties of that date in writing.

(9) The Registrar shall, within thirty days after hearing the parties to an application under this rule, render, and communicate to the parties, a decision granting or rejecting the application.

Additional information

11. (1) The Registrar may, at any time after the filing of originating process, order an appellant or applicant to file a further affidavit setting out additional information—

(a) regarding the grounds on which the appellant or applicant intends to rely; or

(b) which the Registrar considers necessary for the proper determination of the matter.

(2) A respondent may, within five days of being served with originating process, apply to the Registrar for an order requiring the appellant or applicant to file a further affidavit setting out additional information regarding the grounds on which the appellant or applicant intends to rely.

(3) An appellant or applicant ordered to file a further affidavit shall file a minimum of nine copies of the further affidavit within the period specified by the Registrar.

(4) An appellant or applicant shall, within five days of filing a further affidavit, serve the further affidavit on the respondent.

Response and reply to appeal or originating application

12. (1) The Commission shall, within seven days of being served with an appeal, file a minimum of nine copies of—

(a) an affidavit in opposition to appeal, exhibiting the documents relevant to the decision appealed against; and

(b) skeleton arguments.

(2) A respondent to an originating application may, within fourteen days of being served with the originating application, file a minimum of nine copies of—

(a) an affidavit in opposition to originating application; and

(b) skeleton arguments.

(3) A respondent shall, within five days of filing the documents referred under subrule (1) or (2), serve a copy of each document on the appellant or the applicant.

(4) An appellant or applicant may, within seven days of being served with the documents referred under subrule (3), file a minimum of nine copies of an affidavit in reply.

(5) An appellant or applicant shall, within five days of filing an affidavit in reply, serve a copy of the affidavit on the respondent.

Scheduling conference

13. (1) The Registrar shall, within fourteen days of expiry of the period stipulated for the filing of an affidavit in opposition, summon the parties to a scheduling conference.

(2) The Registrar shall, at the scheduling conference—

(a) direct the parties to indicate—

(i) the number of witnesses each party intends to call; and

(ii) an estimate of the amount of time the hearing shall take;

(b) issue directions regarding—

(i) the filing of witness statements and lists of authorities; and

(ii) any other procedural step to be taken by each party prior to the hearing; and

(c) subject to the direction of the Chairperson, set a date for hearing the matter.

(3) The Registrar may dismiss an appeal or originating application if the parties do not attend a scheduling conference on two consecutive occasions without justifiable cause.

Status conference

14. (1) The Registrar may, not less than fourteen days before the date set for hearing an appeal or originating notice of motion, summon the parties to a status conference for purposes of establishing the parties' compliance with the directions issued at the scheduling conference.

(2) Where a party has not complied with directions issued at the scheduling conference, the Registrar may make any order which the Registrar considers appropriate, including an order as to costs against that party.

(3) The Registrar shall not vary the date set for hearing an appeal or originating application without the Chairperson's consent.

Notice of hearing

15. (1) The Registrar shall, after setting the date of hearing under rule 13 or 14, cause to be served on the parties a notice of hearing in Form V set out in the First Schedule.

(2) A party served with a notice of hearing under subrule (1) may, before the date set for the hearing, apply to the Tribunal to vary the date, time, place or mode of hearing.

(3) Subject to subrule (4), the Tribunal shall not grant an application referred under subrule (2) except in compelling and exceptional circumstances.

(4) The Tribunal may, where the Tribunal grants an application under subrule (2), apart from awarding costs to the other party, order the party at whose instance the application is granted to pay to the Tribunal, before the date of hearing, the hearing fee specified in the Second Schedule.

(5) The Tribunal may, where a party ordered to pay a hearing fee under this rule does not pay the fee before the date set for hearing the matter –

(a) dismiss the matter, if the party is the appellant or applicant; or

(b) not hear a party on the matter, if that party is that respondent.

PART IV
PROCEEDINGS

Sittings

16. (1) The Tribunal shall sit and hear matters at a place, time and in a manner determined by the Chairperson or, in the absence of the Chairperson, the ViceChairperson.

(2) The Tribunal or the Registrar may, on application by a party or at the instance of the Tribunal or the Registrar, adjourn a hearing.

(3) Subject to subrule (4), an application for an adjournment shall not be granted except in compelling and exceptional circumstances.

(4) The Tribunal or the Registrar may, where the Tribunal or the Registrar grants an application for an adjournment, apart from awarding costs to the other party, order the party that applied for the adjournment to pay to the Tribunal, before the next date of hearing, the hearing fee specified in the Second Schedule.

(5) The Tribunal or the Registrar may, where a party ordered to pay a hearing fee under this rule does not pay the fee before the date set for hearing the matter—

(a) dismiss the matter, if the party is the appellant or applicant; or

(b) not hear a party, on the matter if the party is the respondent.

Attendance and non-attendance at hearing

17. (1) A party may attend a hearing in person or be represented by an advocate.

(2) An advocate appointed to represent a party shall file a notice of appointment and serve the notice on the other party within five days of filing the notice.

(3) An advocate appointed to represent a party may, at any stage of the proceedings, withdraw from representing that party.

(4) An advocate who withdraws from representing a party shall file a notice of withdrawal stating the last known contact details of the party and serve the notice on the other party within five days of filing the notice.

(5) A matter may be struck out if the appellant or applicant does not attend a hearing of the matter.

(6) An appellant or applicant may, within fourteen days of a matter being struck out, apply to have the matter restored, failing which the Tribunal or the Registrar may dismiss the matter.

(7) The Tribunal or the Registrar may, after hearing an application under subrule (6), order—

(a) that the matter be restored; and

(b) the appellant or applicant to pay to the Tribunal the higher hearing fee specified in the Second Schedule before the date of hearing.

(8) The Tribunal or Registrar may dismiss a matter if the—

(a) appellant or applicant does not attend hearing on two consecutive dates of hearing;

(b) matter is restored under subrule (5) and the appellant or applicant does not attend the next hearing; or

(c) appellant or applicant does not pay the higher hearing fee referred under subrule (7)*(b)*.

(9) The Tribunal or the Registrar may hear or adjourn a matter on terms the Tribunal or the Registrar considers appropriate if the appellant or applicant attends the hearing but the respondent, despite having been notified of the hearing, does not attend.

Dismissal for non prosecution

18. The Tribunal may dismiss an appeal or originating application if sixty days elapse without the appellant or applicant taking steps to prosecute the matter.

Hearing

19. (1) At the hearing of a matter the—

(a) appellant or applicant shall present evidence in support of their case;

(b) respondent may present evidence to rebut the evidence of the appellant or applicant; and

(c) appellant or applicant may present evidence in reply to the evidence presented by the respondent.

(2) At the conclusion of a hearing, the parties may make oral or written submissions within a period the Tribunal or the Registrar may direct.

Evidence

20. (1) The Tribunal or the Registrar may receive, as evidence, a statement, document, information or other thing which, in the opinion of the Tribunal or the Registrar, may assist in dealing with a matter effectively and evidence may be given orally.

(2) The Tribunal or the Registrar may receive oral evidence from a witness within or outside Zambia through audiovisual technology, and such evidence shall be recorded in the same manner as if the witness were physically present at the hearing.

(3) The Tribunal or the Registrar may take judicial notice of any fact.

(4) A witness statement shall—

(a) contain facts relevant to a matter;

(b) refer to the documents, if any, relied on by the witness making the statement; and

(c) be treated as the evidenceinchief of the witness making the statement, who shall be amenable to crossexamination at the hearing.

(5) The person presiding at a hearing may administer an oath or affirmation for purposes of the proceedings.

(6) A person called or summoned to give evidence shall be entitled to the same privileges and immunities as those enjoyed by a person called or summoned to give evidence in civil proceedings before the Court.

Notice to produce document or other information

21. (1) A party may, at any time before or during the hearing of an appeal or originating application, file a notice to produce a document or other information, relating to the appeal or originating application, which is in the other party's possession.

(2) A party that files a notice referred under subrule (1) shall serve the notice on the other party within five days of filing a notice.

(3) A notice to produce a document or other information shall be in Form VI set out in the First Schedule.

Powers of Tribunal or Registrar

22. (1) The Tribunal or the Registrar may, on application by a party or at the instance of the Tribunal or the Registrar—

(a) summon and examine a witness;

(b) order the production of a document, information or other thing before or during the hearing of a matter;

(c) at reasonable times, enter on and inspect property which is the subject of the proceedings except that the Tribunal or Registrar shall not enter any premises unless it gives not less than twentyfour hours' notice to the parties of that intention and the parties shall attend the inspection; or

(d) subject to the Act and these Rules, take any course which, in the opinion of the Tribunal or the Registrar, may help determine a matter in a just, speedy and inexpensive manner.

(2) The Tribunal or the Registrar may, on application by a person summoned to produce a document, information or other thing, excuse the person from producing the document, information or other thing if its production would be contrary to public interest.

(3) Summons to a witness shall be in Form VII set out in the First Schedule.

(4) The parties shall, in equal proportions, reimburse a witness summoned at the instance of the Tribunal or the Registrar the expenses reasonably incurred by that witness in attending a hearing.

(5) A proceeding before the Tribunal or the Registrar is, for all purposes, and in particular for the purposes of Chapter XI of the Penal Code, a judicial proceeding. Cap. 87

Amendment of documents

23. (1) A party may, at any stage of the proceedings, apply for an order to amend a document filed by that party.

(2) A party granted an application under subrule (1) shall, within seven days from the date of receipt of the order, file and serve the amended document on the other party.

(3) A party affected by an amendment under this rule may, within seven days of being served with the amended document—

(a) amend and file that party's relevant documents; and

(b) serve the documents referred under paragraph *(a)* on the other party.

Interlocutory application

24. (1) Except where the Act or these Rules provide otherwise, an interlocutory application shall be made to the Registrar.

(2) An interlocutory application relating to a stay shall be made to the Tribunal.

(3) An applicant in an interlocutory application shall, on payment of the fee specified in the Second Schedule, file—

(a) summons in Form IV set out in the First Schedule;

(b) an affidavit in support of the application; and

(c) skeleton arguments.

(4) An applicant in an interlocutory application shall file, in the case of—

(a) an application for a stay, a minimum of nine copies of the documents referred to in subrule (3); or

(b) any other application, a minimum of four copies of the documents referred under subrule (3).

(5) A party may, without notice to the other party, apply for a stay.

(6) The Tribunal may, where an application is made under subrule (5)—

(a) dismiss the application if the Tribunal is of the opinion that the application is frivolous or vexatious;

(b) set a date for hearing the parties on the application and order the applicant to serve the application on the respondent; or

(c) make an order granting the application and set a date for hearing the parties on the application, after which hearing the Tribunal may confirm, vary or discharge the order.

(7) An applicant shall, within five days of filing an interlocutory application, or of being ordered to serve the application, serve that application on the respondent.

(8) A respondent may, within five days of being served with an interlocutory application, oppose the application by filing, in the case of—

(a) an application for a stay, a minimum of nine copies of an affidavit in opposition and a minimum of nine copies of skeleton arguments; or

(b) any other application, a minimum of four copies of an affidavit in opposition and a minimum of four copies of skeleton arguments.

(9) A party opposing an interlocutory application shall, within five days of filing the documents referred under subrule (8), serve the documents on the applicant.

Interlocutory appeal against Registrar's decision

25. (1) Subject to these Rules, a party that is dissatisfied with a decision of the Registrar may, within fourteen days of receiving the decision, appeal against that decision to the Tribunal.

(2) An appeal against a decision of the Registrar shall be made, on payment of the fee specified in the Second Schedule, by filing a minimum of nine copies of—

(a) a notice of interlocutory appeal in Form VIII set out in the First Schedule;

(b) an affidavit in support of the appeal; and

(c) skeleton arguments.

(3) An appellant shall, within five days of filing an interlocutory appeal, serve a copy of the appeal on the respondent.

(4) A respondent that intends to respond to an interlocutory appeal shall, within fourteen days of being served with the interlocutory appeal, file a minimum of nine copies of—

(a) an affidavit in opposition; and

(b) skeleton arguments.

(5) A respondent shall, within five days of filing the affidavit in opposition and skeleton arguments, serve a copy of the documents on the appellant.

(6) An appellant may, within five days of being served with an affidavit in opposition and skeleton arguments, file an affidavit in reply to the affidavit in opposition and serve a copy of the affidavit in reply on the respondent within five days of filing the affidavit in reply.

(7) The Tribunal shall, after the expiry of the period for filing an affidavit in reply, issue a notice of hearing of the interlocutory appeal in Form V set out in the First Schedule.

(8) An interlocutory appeal shall not act as a stay of the decision appealed against unless the Tribunal or the Registrar orders otherwise.

(9) Where the Registrar refuses to grant an application for a stay, the applicant may, within five days of being made aware of the refusal, renew the application before the Tribunal.

Recording of proceedings

26. (1) A record of proceedings shall be kept in electronic form and hard copy.

(2) A transcribed record of proceedings shall—

(a) be certified by the Tribunal;

(b) be considered to be a true and correct record of the proceedings; and

(c) constitute part of the record of the Tribunal.

(3) A transcript of the record of proceedings kept in accordance with this rule may, on payment of the fee specified in the Second Schedule, be made available to a party.

PART V
DECISIONS

Decision

27. (1) A decision of the Tribunal or the Registrar shall be in writing, and contain the—

(a) findings of the Tribunal or the Registrar on each issue of fact or law raised in the proceedings relating to the decision; and

(b) reason for the decision.

(2) The Tribunal or the Registrar may, on conclusion of a hearing deliver the decision at once or reserve the decision.

(3) The Tribunal or the Registrar shall, where the Tribunal or the Registrar reserves a decision and does not specify the date for the delivery of the decision, issue to the parties a notice of date of delivery of the decision in Form IX set out in the First Schedule.

(4) The Tribunal or the Registrar shall where the Tribunal or the Registrar delivers a decision on the date specified in the notice referred under subrule (3), the parties shall be considered to have received the decision on that date.

(5) A decision of the Tribunal may—

(a) be pronounced by a member who was part of the Tribunal; or

(b) in the absence of a member who was part of the Tribunal, be read by the Registrar.

Consent order

28. (1) Where the parties agree on the terms of an order to be made by the Tribunal or the Registrar the—

(a) parties shall sign and file—

(i) consent summons; and

(ii) a draft consent order setting out the agreed terms; and

(b) Tribunal or the Registrar may give effect to the order referred under paragraph *(a)* (ii) by signing that order.

(2) A party shall not appeal against an order made under subrule (1).

Clerical error, accidental slip or omission

29. (1) Subject to subrule (2), the Tribunal or the Registrar may, at any time, correct a clerical error arising from an accidental slip or omission made in the Tribunal's or the Registrar's decision.

(2) Where a correction is made under subrule (1), the Registrar shall—

(a) alter any entry, in the appropriate register, which is affected by the correction; and

(b) send a copy of the corrected decision to the parties.

Enforcement of decisions

30. A decision of the Tribunal or the Registrar shall be enforced as if it were a decision of the Court.

Costs

31. (1) The Tribunal or the Registrar may make an order for costs which the Tribunal or the Registrar considers just.

(2) A party shall, where the parties fail to agree on the amount of costs payable, file a notice of taxation of costs within sixty days of the order referred under subrule (1).

(3) The Registrar shall tax a bill of costs in accordance with the scale of fees used in the Court.

(4) A party dissatisfied with a decision of the Registrar under subrule (3) may, within seven days of the receipt of the decision, apply to the Tribunal for review of the decision.

PART VI

General Provisions

Service

32. (1) A party shall effect service of a document required to be served under these Rules by physically delivering the document to the person to whom the document is addressed.

(2) Where a party finds it impracticable to effect service in accordance with subrule (1), that party may, with the permission of the Tribunal or the Registrar, effect service by—

(a) sending the document to the electronic mail address for service provided by the person to whom it is addressed;

(b) registered post to the postal address for service provided by the person to whom it is addressed;

(c) advertising the document in a newspaper of wide circulation in the Republic; or

(d) any other mode of service which the Tribunal or the Registrar may authorise if it is shown to the Tribunal or the Registrar that it is not reasonably practicable to serve the document using any of the modes of service provided in this rule.

(3) A party that serves a document under these Rules shall file an affidavit of service.

Search

33. (1) Subject to subrule (2), a person may search a record or register on payment of the fee specified in the Second Schedule.

(2) The Registrar may restrict a search on a record in respect of which the hearing was not held in public.

(3) A request for a search under this rule shall be in Form X set out in the First Schedule.

Joinder and misjoinder

34. (1) A person that is likely to be affected by a decision of the Tribunal or Registrar, in any proceedings, may apply to be joined as a party to the proceedings.

(2) A person that has been wrongly joined to proceedings may apply to be removed as a party.

(3) The Tribunal or the Registrar shall, before determining an application for joinder or misjoinder, give the appellant or applicant an opportunity to be heard.

Extension and abridgment of time, and late applications

35. (1) The Tribunal or the Registrar may, for sufficient reason and before the expiry of the period for making an application or taking a step in, or in connection with the proceedings, extend time for taking a step in, or in connection with, the proceedings.

(2) The parties may, by consent, abridge the time for making an application or taking a step in, or in connection with, the proceedings.

(3) Where the parties fail to consent to abridge time under subrule (2), a party seeking to abridge time may apply to the Tribunal or the Registrar for abridgement of time.

(4) Where the time for making an application or taking a step in, or in connection with, the proceedings has expired, the Tribunal or the Registrar may permit a party to make that application or take that step out of time.

Consolidation

(5) This rule does not apply to applications for permission to file originating process out of time.

36. The Tribunal may, on its own motion, or on application by a party, order consolidation of appeals or originating applications before the Tribunal if the appeals or originating applications—

(a) arise from the same decision;

(b) raise common questions of law; or

(b) relate to the same subject matter.

Withdrawal of proceedings

37. (1) An appellant or applicant may, at any stage of the proceedings and on payment of the fee specified in the Second Schedule, withdraw a matter by filing a notice of withdrawal in Form XI set out in the First Schedule.

(2) An appellant or applicant that files a notice of withdrawal shall, within five days of filing the notice, serve that notice on the respondent.

(3) The Tribunal or the Registrar may order an appellant or applicant that withdraws a matter to pay costs to the respondent.

Notice to proceed

38. A party intending to proceed with an appeal or originating application in respect of which there has been no proceeding for ninety days shall—

(a) on payment of the fee specified in the Second Schedule, file a notice of intention to proceed in Form XII set out in the First Schedule; and

(b) not less than twentyone days before proceeding with the matter, serve the notice referred under paragraph *(a)* on the other party.

Appeal to Court of Appeal
Act No. 7 of 2016
SI No. 65 of 2016

39. An appeal against a decision of the Tribunal shall be made in accordance with the Act and the Court of Appeal Act, 2016.

Fees

40. The fees payable for matters provided for in these Rules are set out in the Second Schedule.

Non-compliance with rules

41. Where a party does not comply with these Rules, the Tribunal may, after giving the parties an opportunity to be heard, make an order that may be appropriate for the purpose of expediting or disposing of the proceedings.

FIRST SCHEDULE

(Rules 6, 7(1), 8(1), 10(2), 15(1), 21(3), 22(3), 24(3), 25(2) and (7), 27(3), 33(3), 37(1), and 38)

PRESCRIBED FORMS

The Securities Act, 2016
(Act No. 41 of 2016)

The Securities (Capital Markets Tribunal) Rules, 2021

FORM I
(Rule 6)

General Title of Proceedings

***20..../CMT/A/.....**
***20..../CMT/OA/.....**

IN THE CAPITAL MARKETS TRIBUNAL

HELD AT .....

BETWEEN:

..... *Appellant/Applicant

AND

..... Respondent

*Delete if inapplicable.

FORM II
(Rule 7(1))

(insert title of proceedings)

NOTICE OF APPEAL

TAKE NOTICE that ..... (name of appellant) being dissatisfied with the decision of the Commission given at ..... on the ..... day of ....., 20....., intends to appeal to the Tribunal against the whole decision or against such part of the said decision as: ..... (specify the parts of decision being appealed against) on the following grounds:

.....

.....

The appellant i s seeking the following reliefs from the Tribunal:

.....

.....

The appellant attests that the appellant—

(a) has commenced proceedings, which proceedings are pending or have been disposed of, that are materially similar to this appeal before [insert the name of the court or other tribunal as well as the title and cause number of the proceedings commenced, pending or disposed of before that court or other tribunal]. ☐

(b) has not commenced proceedings that are materially similar to this appeal before any court or other tribunal. ☐

(*Tick in the applicable box*)

Dated at ..... this.....day of ....., 20.....

The Appellant or Appellant's Advocate's address(es) for service is or are:
Physical address: .....
Electronic mail address: .....
Postal address: .....
Telephone/Mobile Phone Number: .....

The Respondent to the intended appeal is:
(Name) ..... whose address(es) for service is or are:
Physical address:.....
Electronic mail address: .....
Postal address: .....
Telephone/Mobile Phone Number (if known):.....
Filed at .....this .....day of ....., 20.....

.....
Registrar

FORM III
(Rule 8 (1))

(insert title of proceedings)

ORIGINATING NOTICE OF MOTION

TAKE NOTICE that the Capital Markets Tribunal will be moved by the abovenamed Applicant at..... on the.....day of ....., 20.....at .....hours in the .....noon, or so soon thereafter as the Applicant or the Applicant's Advocate can be heard, for an order that .....and that the costs of this application be .....

The applicant attests that the applicant—

(a) has commenced proceedings, which proceedings are pending or have been disposed of, that are materially similar to this application before [*insert the name of the court or other tribunal as well as the title and cause number of the proceedings commenced, pending or disposed of before that court or other tribunal*].

(b) has not commenced proceedings that are materially similar to this application before any court or other tribunal.

(*Tick in the applicable box*)

Dated at.....the .....day ....., 20.....

This notice of motion has been filed by the Applicant or the Applicant's Advocate whose address(es) for service is or are:

Physical address:.....

Electronic mail address: .....

Postal address:.....

Telephone/Mobile Phone Number: .....

To the Respondent or the Respondent's Advocate whose address(es) for service is or are:

Physical address: .....

Electronic mail address: .....

Postal address: .....

Telephone/Mobile Phone Number (if known): .....

NOTE TO RESPONDENT:

It will not be necessary for you to enter an appearance but if you do not attend the hearing of this application in person or by your Advocate, at the time and at the place mentioned in this notice for the hearing of the application, the Tribunal may make an order and proceed in a manner the Tribunal considers just and expedient.

FORM IV
(Rules 10 (2) and 24 (3))

(insert title of proceedings)

SUMMONS (FOR USE IN INTERLOCUTORY APPLICATIONS)

LET the *party/parties concerned attend ..... (state whether physically or virtually) before the *Tribunal/Registrar on the..... day of ....., 20..... at ..... hours in the ..... noon on the hearing of an application on the part of the *Appellant/Applicant/Respondent for an order that..... and that costs of the application be .....

Dated at .....this .....day of....., 20.....

This Summons was taken out by .....whose address(es) of service is or are:

Physical address: .....

Electronic mail address: .....

Postal address: .....

Telephone/Mobile Phone Number: .....

*To: .....whose address(es) for service is or are:

Physical address: .....

Electronic mail address: .....

Postal address:.....

Telephone/Mobile Phone Number: .....

*Delete if inapplicable.

FORM V
(Rules 15 (1) and 25(7))

(insert title of proceedings)

NOTICE OF HEARING

TAKE NOTICE that the above matter will be heard by the Tribunal sitting ..... (state whether sitting will be physical or virtual) at.....on the ..... day of ....., 20....., at ..... hours in the .....noon.

You are accordingly required to attend before the Tribunal and bring your witnesses, if any, with you. If you or the Advocate authorised by you to act on your behalf do not attend at the place and time appointed mentioned above, the Tribunal may proceed with the matter and render a decision in your absence.

Given under my hand and the seal of the Tribunal this .....day of ....., 20.....

.....

Registrar

To:

The Appellant/Applicant or Appellant's/Applicant's Advocate whose address(es) for service is or are:

Physical address: .....

Electronic mail address: .....

Postal address:.....

Telephone/Mobile Phone Number:.....

The Respondent or Respondent's Advocate whose address(es) for service is or are:

1. Physical address: .....
2. Electronic mail address: .....
3. Postal address: .....
4. Telephone/Mobile Phone Number: .....

FORM VI
(Rule 21 (3))

(insert title of proceedings)

NOTICE TO PRODUCE DOCUMENT OR OTHER INFORMATION

TAKE NOTICE that you are required to lodge with the Tribunal the following document or other information which, in the opinion of the Tribunal, is in your possession or under your control on or before the .....ay of ....., 20.....

Given under my hand and the seal of the Tribunal this ¼¼day of ¼¼.¼¼¼¼¼¼¼, 20¼¼

.....

Registrar

To: .....whose address(es) for service is or are:

Physical address: .....

Electronic mail address: .....

Postal address: .....

Telephone/Mobile Phone Number: .....

FORM VII
(Rule 22 (3))

(insert title of proceedings)

To:.....(name of witness)

SUMMONS TO WITNESS

YOU ARE RECOMMENDED to attend .....(state whether physically or virtually) before the Tribunal at .....on the.....day of ....., 20.....at.....hours in the .....noon and so from day to day until the above appeal or originating application is heard, to give evidence on behalf of the *Appellant/Applicant/Respondent. You are required to bring the following documents for the hearing:

.....

.....

Given under my hand and the seal of the Tribunal this.....day of....., 20.....

.....

Registrar

ACKNOWLEDGEMENT OF SERVICE OF SUMMONS

Full name:.....

Signature: .....

Address: .....

Date and Time: .....

*Delete if inapplicable.

FORM VIII
(Rule 25 (2))

(insert title of proceedings)

NOTICE OF INTERLOCUTORY APPEAL

TAKE NOTICE that *Appellant/Applicant/Respondent being dissatisfied with the decision of the Registrar given at..... on the .....day of ....., 20....., intends to appeal to the Tribunal against the whole decision or against such part of the said decision as: ..... (specify the parts of decision being appealed against) on the following grounds:

.....

.....

The appellant is seeking the following reliefs from the Tribunal:

.....

.....

Dated at ..... this.....day of ....., 20.....

To the Respondent to the intended interlocutory appeal .....(Name), whose address(es) for service is or are:

Physical address: .....

Electronic mail address: .....

Postal address: .....

Telephone/Mobile Phone Number (if known): .....

Filed at.....this .....day of ....., 20.....

.....

Registrar

*Delete if inapplicable.

FORM IX
(Rule 27 (3))

(insert title of proceedings)

NOTICE OF DATE FOR DELIVERY OF DECISION

TAKE NOTICE that the decision of the *Tribunal/Registrar will be delivered ..... (state whether delivery of decision will be physical or virtual) at .....on the ..... day of ....., 20...., at.....hours in the .....noon.

Given under my hand and the seal of the Tribunal this .....day of....., 20.....

.....

Registrar

To:

The *Appellant/Applicant or Appellant's/Applicant's Advocate whose address(es) for service is or are:

Physical address: .....

Electronic mail address: .....

Postal address: .....

Telephone/Mobile Phone Number:.....

The Respondent or Respondent's Advocate whose address(es) for service is or are:

1. Physical address: .....
2. Electronic mail address: .....
3. Postal address: .....
4. Telephone/Mobile Phone Number: .....

*Delete if inapplicable.

FORM X
(Rule 33 (3))

(insert title of proceedings)

SEARCH FORM

SEARCH for: .....

Dated at .....the.....day of ....., 20.....

Signed: .....

Address: .....

Capacity in which search conducted:.....

FORM XI
(Rule 37 (1))

(insert title of proceedings)

NOTICE OF WITHDRAWAL OF PROCEEDINGS

TAKE NOTICE that the *Appellant/Applicant/Respondent ....(name) discontinues further proceedings in the this *appeal/interlocutory appeal/originating application/interlocutory application, or such part thereof as relates to.....(set out part to which withdrawal relates).

Dated at .....the.....day of ....., 20.....

This notice has been filed by the *Appellant/Applicant/Respondent or their Advocate, whose address(es) for service is or are:

Physical address:.....

Electronic mail address: .....

Postal address:.....

Telephone/Mobile Phone Number:.....

To:

The Registrar

The *Appellant/Applicant/Respondent or their Advocate, whose address(es) for service is or are:

Physical address:.....

Electronic mail address: .....

Postal address:.....

Telephone/Mobile Phone Number: .....

*Delete if inapplicable.

FORM XII
(Rule 38)

(insert title of proceedings)

NOTICE TO PROCEED

TAKE NOTICE that at the expiry of twentyone days from the date of this notice, the *Appellant/ Applicant/Respondent intends to proceed with the *appeal/originating application.

Dated the .....day of....., 20.....

This Notice has been given by.....whose address(es) of service is or are:

Physical address: .....

Electronic mail address: .....

Postal address: .....

Telephone/Mobile Phone Number:.....

To:.....whose address(es) for service is or are:

Physical address: .....

Electronic mail address: .....

Postal address:.....

Telephone/Mobile Phone Number: .....

*Delete if inapplicable.

SECOND SCHEDULE
(Rule 37)

PRESCRIBED FORMS

Process	*Fee Units*
Notice of appeal or originating notice of motion where relief sought does not include a claim relating to a sum of money:	1,666.6
Notice of appeal or originating notice of motion, where relief sought includes a claim relating to a sum of money:	
below K50,000.00	4,444.4
above K50,000.00 but not exceeding K100,000.	5,555.5
above K100,000.00 but not exceeding K200,000.00	6,111.1
above K200,000.00 but not exceeding K500,000.00	6,666.6
above K500,000.00 but not exceeding K1,000,000.00	8,333.3
above K1,000,000.00	11,111.1
Summons	333.3
Affidavit in opposition to originating application	1,333.3
Other affidavit	166.6
Notice of interlocutory appeal	333.3
Amendment of document:	
First amendment	555.5
Second amendment	1,111.1
Subsequent amendment	2,222.2
Skeleton arguments	166.6
List of authorities	277.7
Certificate of urgency	555.5
Summons to restore	1,666.6
Hearing fee	1,111.1
Higher hearing fee	2,777.7
Search	100
Transcript of record of proceedings per page	45
Notice of appointment	133.3
Notice of withdrawal of proceedings	555.5
Notice to proceed	555.5
Application not specifically provided for	333.3
On the examination of a witness before an officer of the Tribunal for each half hour or part thereof (where the officer is required to take the examination away from the office, the officer's reasonable travelling and other expenses are also payable)	139

Witness statement	56
On an application for copies of the notes of Tribunal for the use of Court of Appeal per page or part thereof	56
On commissioning an affidavit	166.6
Notice of taxation	333.3
Consent of taxation	5% of agreed costs
Taxing Bill of cost	10% of taxed bill of costs
For certifying a copy as an office copy and in addition, if under seal	45
On filing any notice not specifically provided for	45
Decision:	
(a) hard copy per page	83.3
(b) soft copy whole decision	166.6

I. C. MAMBILIMA,
Chief Justice

LUSAKA
15th April, 2021