

**STATUTORY INSTRUMENTS SUPPLEMENT**  
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**S T A T U T O R Y   I N S T R U M E N T S**

**2017 No. 41.**

**THE COLLECTIVE INVESTMENT SCHEMES (REAL ESTATE  
INVESTMENT TRUSTS) REGULATIONS, 2017**

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# STATUTORY INSTRUMENTS

2017 No. 41.

## **The Collective Investment Schemes (Real Estate Investment Trusts) Regulations, 2017.**

*(Under sections 30, 31 and 84 of the Collective Investment Schemes Act, 2003, Act No. 4 of 2003)*

IN EXERCISE of the powers conferred upon the Capital Markets Authority by sections 30, 31 and 84 of the Collective Investment Schemes Act, 2003, Act No. 4 of 2003, these Regulations are made this 19th day of December, 2016.

### PART I—PRELIMINARY

#### **1. Title.**

These Regulations may be cited as the Collective Investment Schemes (Real Estate Investment Trusts) Regulations, 2017.

#### **2. Application.**

(1) These Regulations apply to Real Estate Investment Trusts constituted and approved in Uganda under the Act and these Regulations.

(2) These Regulations apply to only Closed Ended Real Estate Investment Funds.

#### **3. Interpretation.**

In these Regulations, unless the context otherwise requires—

“Act” means the Collective Investment Schemes Act, 2003;

“associate” or “associated person” in relation to any person who is a director of the company, means that person’s wife, husband or child or anybody corporate of which that person is a director, any person who is an employee or partner of that person and, if that person is a body corporate, any subsidiary of that body corporate and any employee of such a subsidiary;



“Authority” means the Capital Markets Authority established under section 4 of the Capital Markets Authority Act, Cap 84;

“closed ended fund” means a fund or trust where—

- (a) a person invests by subscribing for an issue of REIT securities or by acquiring REIT securities in a secondary market;
- (b) the value of the investment fluctuates over time as determined by market price for the REIT securities;
- (c) the number of the REIT securities issued remains constant over time except where a new issue of REIT securities is made or there is a reduction in the capital of the fund initiated by the trustee or as a consequence of termination or winding up of the trust; and
- (d) the REIT securities holder except where there is a reduction in the capital of the fund initiated by the trustee or as a consequence of termination or winding up of the trust—
  - (i) is not entitled to require the trustee to redeem the REIT securities; and
  - (ii) may only exit the investment in the REIT securities by selling the units in a secondary market;

“compliance officer” means a person designated as such by the market intermediary;

“connected person” or “connected party” in relation to a real estate investment trust scheme includes—

- (a) the REIT manager;
- (b) a valuer appointed to undertake a valuation of the scheme;

- (c) the trustee;
- (d) a substantial holder of REIT securities in the scheme;
- (e) a director, a senior executive or an officer of any person referred to in (a), (b) or (c);
- (f) an associate of any person referred to in (d) and (e);
- (g) a controlling entity, a holding company, a subsidiary or an associated company of any person referred to in (a) to (d);

“co-tenancy” means the ownership of land by two or more persons in undivided shares and includes joint tenancy or tenancy in common;

“currency point” has the meaning assigned to it in Schedule I;

“Development and construction Real Estate Investment Trust” or “D-REIT scheme” means a real estate investment trust scheme authorised as such a scheme by the Authority;

“eligible investments” means the assets and other investments specified under regulation 65 in respect of an I-REIT and regulation 77 in respect of a D-REIT in which the trustee may invest;

“eligible real estate” means in respect to real estate situate in Uganda or outside Uganda;

“exempted real estate investment trust” means—

- (a) a collective investment scheme authorised by the Authority other than a real estate investment trust scheme;
- (b) a scheme that is prescribed by the Authority not to be a real estate investment trust scheme; or
- (c) a trust, scheme, syndicate or arrangement which—

- (i) does not involve an issue or offer to the public or a section of the public which complies with the conditions for a private offer as prescribed by the Authority and in respect of which the issuer has not elected to seek authorisation under these Regulations as a real estate investment trust scheme;
  - (ii) is limited to members of a family group;
  - (iii) is a charitable trust; or
  - (iv) is established as a consequence of a disposition under a will or other testamentary instrument;
- (d) for the avoidance of doubt, “exempted real estate investment trust” does not include—
- (i) a statutory fund maintained under any law for the regulation of insurance in Uganda;
  - (ii) any pension or retirement fund established under or regulated by the laws of Uganda;
  - (iii) an arrangement regulated in Uganda by the law of partnership; or
  - (iv) a scheme which is operated as a co-operative and regulated under the laws of Uganda;

“free float” means REIT securities issued, offered or held by persons who are not connected persons or associated persons with the promoter or the REIT manager;

“fund” means a real estate investment trust fund or REIT fund;

“high net worth persons” means a person who either alone or with any associates on a joint account, subscribes for REITS securities with an issue price equal to at least seven thousand five hundred currency points;

“information Memorandum” means any notice, circular, material or advertisement, publication or other invitation issuing or information for subscription, sale or purchase of any REIT security to a professional investor and includes a conversion information Memorandum or supplemental information Memorandum;

“IFRS” means the International Financial Reporting Standards issued from time to time by the International Accounting Standards Board as adopted in Uganda;

“income real estate investment trust” or “I-REIT” means a real estate investment trust that complies with the requirements of these Regulations and the terms;

“income real estate investment trust scheme” or I-REIT scheme” means a real estate investment trust scheme authorised as such by the Authority;

“independent auditor” means a person who—

- (a) is qualified and registered as an auditor by the Institute of Certified Public Accountants of Uganda;
- (b) holds a valid practicing certificate;
- (c) is not an auditor of the trustee, promoter or the REIT manager;
- (d) is not a director, officer, employee, shareholder or a partner of a person specified in subparagraph (c); and
- (e) is otherwise qualified for appointment as an auditor of a REIT;

“initial offer” means the first offer or issue of REIT securities made to persons other than the promoter, connected persons to the promoter or the REIT manager;

“investor” means a holder of REIT securities who is a beneficiary under the trust deed;

“initial public offer” or “IPO” in relation to REIT securities means the first unrestricted public issue of I-REIT securities which are to be listed on an approved securities exchange;

“investee company” means a company which meets the requirements of regulation 65 in respect of an I-REIT and regulation 77 in respect of a D-REIT;

“investee trust” means a trust which meets the requirements of regulation 65 in respect of an I-REIT and regulation 77 in respect of a D-REIT;

“issuer” means—

- (a) for the first issue of REIT securities made after the authorisation of the real estate investment trust scheme, the promoter;
- (b) for any subsequent issue or offer of REIT securities or in the case of a conversion as provided for under regulation 86, the REIT manager at the time of issue,

but does not include a trustee;

“leasehold” includes sub-leasehold;

“listed” in relation to REIT securities, means REIT securities which are traded on an approved securities exchange in Uganda or any other exchange as may be approved by the Authority;

“lock in period” means a period in which the promoter is required to retain an investment in REIT securities;

“management expense ratio” or “MER” means the ratio of the sum of fees and recoverable expenses of the real estate investment to the average value of the fund calculated on a daily basis where—

- (a) fees equals all outgoing fees deducted or deductible directly from the fund in respect of the period covered by the management expense ratio, expressed as a fixed amount, calculated on a daily basis and includes any management fee, the annual trustee fee and any other fees deducted or deductible directly from the fund;
- (b) recoverable expenses equal all expenses recovered from or charged to the fund as a result of the expenses incurred by the operation of the fund expressed as a fixed amount but should not include expenses that would otherwise have been incurred by an individual investor, for example taxes; and
- (c) average value of the REIT securities equals the net asset value of the trust, including net income value, less expenses on an accrued basis, for the period covered by the management expense ratio, calculated on a daily basis;

“net asset value” or “NAV” means the value of all assets of the fund less the value of all liabilities of the Fund, including trustee and management fees, as at the day the calculation is made;

“net asset value per unit” or “NAV per unit” means the NAV divided by the number of units of REIT securities issued and not redeemed on the day the calculation is made;

“offeror” means a person who makes an offer of REIT securities and shall include the issuer where the issuer makes the offer or requests or authorises another person to make the offer but does not include the trustee;

“partial ownership” when used in connection with or in respect of land or real estate includes, any title or ownership or right or purported right to occupy or use land or use real estate which is in the form of a co-tenancy or where the ownership is in a partnership, a co-operative, or other form of co-ownership whether formal or informal including by way of ownership of

a share in a company that is not wholly owned and controlled or of a unit in a trust that is not wholly owned or pursuant to a licence or easement or other form of joint or co-ownership but does not include—

- (a) ownership of shares in a common REIT where the share is held as a consequence of the holding of a freehold or leasehold title;
- (b) a right in respect of common property arising out of a leasehold held under the Land Act;
- (c) a right under a lease, or licence of easement that arises as a consequence of the holding of freehold or leasehold title or which is established for the benefit of that freehold or leasehold title or relates to plant and equipment or the use of a utility or infrastructure or natural resource for use in connection with the freehold or leasehold title; or
- (d) ownership where the assets are held jointly in the name of the trustee and a secondary disposition trustee;

“professional investor” means a person whose ordinary business or regular activity involves the buying and selling of securities as a principal and includes an underwriter, a financial institution, an insurance company, high net worth persons, a fund manager, a broker, a broker’s representative, a dealer, a dealer’s representative, an investment adviser or investment adviser’s representative acting as principal subject to any exception that may be prescribed by the Authority;

“promoter” means a person who—

- (a) acts as a promoter; or
- (b) is nominated in the application for authorisation, to act as a promoter,

of a real estate investment trust or a real estate investment trust scheme but does not include an underwriter of an issue or offer of REIT securities who is paid a commission without otherwise taking part in the formation, establishment or organisation of the real estate investment trust or scheme;

“property manager” means a person appointed as such under regulation 55;

“project manager certifier” means a person appointed as such under part 8 of Form 3 set out in Schedule 3;

“Prospectus” means any notice, circular, material or advertisement, publication or other invitation issuing or Information for subscription, sale or purchase of any REIT security which is capable of being accepted by any person who is not a professional investor and includes a supplemental Prospectus or a conversion Prospectus;

“real estate” means land and includes—

- (a) all things which are a natural part of the land or growing on the land;
- (b) attachments above and below the land;
- (c) things which are fixtures or are developed, installed or constructed on the land including buildings and site improvements;
- (d) improvements and permanent building, plant and equipment or attachments such as plumbing, heating and cooling systems, electrical wiring and built-in items such as elevators, and items of a similar nature which might be used in connection with the land; and
- (e) all rights and interests attaching to the land;

“REIT” means a real estate investment trust;



“real estate investment trust” means an arrangement in respect of real estate or interest in real estate of any description, structured in accordance with the rules prescribed by the Authority to enable a person taking part in the arrangement, whether by becoming an owner 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 real estate or interest in the real estate or sums paid out of such profits or income;

“real estate investment trust assets” or “REIT assets” or “scheme assets” includes all assets of the REIT fund;

“real estate investment trust fund” or “REIT fund” means all contributions of money or money’s worth or other income or assets of the real estate investment trust from time to time including money borrowed or raised by the trustee for the purposes of the scheme and includes all amounts due and any rights of a manager or of a trustee to commence or pursue actions against any person and the rights of the beneficiaries of the trust to commence or pursue actions against any party including a trustee;

“real estate investment trust scheme” or “REIT scheme” means an arrangement made or established for the purposes of collective investment by persons in real estate for the purpose of earning profits or income from real estate as beneficiaries of a trust which is divided into units where—

- (a) a person contributes money or money’s worth as consideration to acquire rights or interests to gain the benefits from pooling of funds and the investment in real estate;
- (b) the person investing does not have the day to day control over the management of the assets of the real estate investment trust;

- (c) the assets are managed by an entity; or
  - (d) the assets are otherwise prescribed by the Authority to be a real estate investment trust scheme;
- and includes a real estate investment trust but does not include an exempted real estate investment trust;
- “register” means the register of REIT securities holders maintained by the trustee under regulation 51;
- “REIT manager” means a company incorporated or registered in Uganda and licenced by the Authority to provide real estate management services in respect of a REIT;
- “REIT securities” means units in a trust which is a real estate investment trust or a real estate investment trust scheme;
- “restricted offer” means an issue or an offer made only to professional investors;
- “scheme” means a real estate investment trust scheme;
- “scheme documents” include—
- (a) the Prospectus and information Memorandum and any conversion or supplementary Prospectus or information Memorandum;
  - (b) the trust deed and any amending, supplemental or replacement trust deed;
  - (c) any document appointing a REIT manager or setting out the terms of appointment, the role or obligations of a REIT manager;
  - (d) any document appointing a property manager, project manager certifier or structural engineer or setting out the terms of appointment, the role or obligations of such persons;
  - (e) any document described in paragraph (b), (c) or (d) above which relates to an investee trust; and

- (f) the Memorandum and Articles of Association of any investee company and any shareholders' agreement including any amendment or supplement or Memorandum and Articles of Association of shareholder's agreement.

“secondary disposition trustee” means an additional trustee appointed by the Authority, the scheme documents or the trustee as a joint trustee with limited powers pursuant to regulation 45;

“securities” means any instrument defined as such under the Capital Markets Authority Act and includes REIT securities;

“special resolution” means a resolution passed by a majority of not less than three-fourths of the holders of REIT securities being entitled so to do, vote in person or where proxies are permitted by proxy, at a general meeting of holders of REIT securities of which at least twenty-one days' written notice specifying the intention to propose the special resolution has been given;

“substantial holder of REIT securities” means a person who holds fifteen percent or more of the issued REIT securities in a scheme, where for the purposes of calculating the fifteen percent, in addition to any REIT securities held by the holder, that person is also considered to be the holder of any REIT securities held by—

- (a) an associate of a holder who is an individual; or
- (b) a director, senior executive, officer, controlling entity, holding company, subsidiary or associated company of the holder, if the holder is an entity;

“total asset value” or “TAV” means the value of all assets of the fund based on the most recent valuation;

“transaction adviser” means a person appointed under regulation 33 and licenced under the Capital Markets Authority Act to undertake such activities;

“trust deed” in relation to a real estate investment trust scheme, means the trust deed or other document which establishes or sets out the terms of the trust and includes—

- (a) any instrument that varies the terms of the trust or affects the powers or functions of the trustee or any manager appointed in respect of the trust; and
- (b) any instrument that varies the rights of beneficiaries under the trust including the REIT securities holders;

“trustee” means the person holding title to the property of a unit trust scheme on trust for the participants and in relation to a collective investment scheme constituted under the law of a country or territory outside Uganda, or any person who whether or not under a trust is entrusted with the custody of the property in question;

“unit” means a REIT security being any undivided share, right, interest or entitlement in the assets of the real estate investment trust which is classified as a security under the Act;

“unit holders” or “securities holders” means holders of the REITS securities;

“valuation report” in respect of a real estate investment trust scheme, means a report made by a valuer; and

“valuer” for the purposes of REIT securities, means a person appointed as such under these Regulations to prepare a valuation report.

**4. Scheme to comply with these Regulations.**

A person who intends to establish a trust, scheme, an arrangement or any form of a collective investment scheme as a real estate investment trust scheme, shall not refer or call such trust, scheme, arrangement or collective investment scheme, a real estate investment trust scheme, unless the trust, scheme, arrangement or collective investment scheme is authorised under regulation 19.

**5. Requirement for prior consent.**

(1) Where a promoter or any person who proposes to invest, sell, assign or transfer real estate to a real estate investment trust, is regulated by another body or authority, that person shall obtain the consent of the other body or authority before the submission of any application for authorisation as a real estate investment scheme to the Authority.

(2) A breach of sub-regulation (1) shall not make void any transaction entered into or prevent the trustee from pursuing any remedies the trustee may have against any other person, but shall prevent any action by the other promoter or other party against the trustee for non-performance of any contract entered into in contravention of this regulation.

**6. Structure of a real estate investment trust.**

A real estate investment trust scheme shall—

- (a) be structured as an unincorporated entity trust which is divided into units;
- (b) be established under a trust deed which provides for the matters set out in Schedule 2;
- (c) have a trustee who is independent of the REIT manager and promoter and satisfies the requirements of these Regulations; and
- (d) have a REIT manager and a trustee licenced by the Authority.

## **7. Term of the trust.**

(1) The trust deed shall specify the term of the trust which shall not exceed the maximum period permitted under any written law.

(2) A real estate investment trust scheme shall not extend beyond the term of the trust.

## **8. Assets of the scheme.**

(1) All assets of the real estate investment trust scheme shall—

- (a) be held in the name and under the control of the trustee for the benefit of REIT securities' holders as the beneficiaries of the trust in accordance with the terms of the trust deed;
- (b) only be invested in eligible investments;
- (c) be segregated from the assets and liabilities of the trustee and shall not to be included in the assets of the trustee in the event of—
  - (i) claims by creditors of the trustee;
  - (ii) the insolvency, winding up, takeover, restructure or amalgamation of the trustee;
  - (iii) winding up of the scheme;
  - (iv) dissolution of the scheme; or
  - (v) the amalgamation or restructure of the scheme.

(2) A trustee may, subject to the Act and the terms of the trust deed, enter into borrowing arrangements for the purposes only of fulfilling the objectives of the trust and may pledge or give security over the assets of the trust scheme to secure such borrowing.

## **9. Types of real estate investment trust schemes.**

(1) A real estate investment trust scheme may, subject to these Regulations, be structured as—

- (a) a development and construction real estate investment trust scheme or a D-REIT; or
- (b) an income real estate investment trust scheme or an I-REIT.

(2) A D-REIT may, subject to these Regulations, convert into an I-REIT.

## **10. Status of the fund and redemption of units.**

(1) An I-REIT offered to the general public shall be structured as a closed ended fund and must be listed.

(2) An I-REIT which is restricted to only professional investors may convert its status to a D-REIT offered to the general public.

(3) Nothing in these Regulations shall restrict the trustee from offering to acquire units from holders of D-REITs or I-REITs on a voluntary basis or from issuing additional units from time to time.

## **11. Objectives of D-REIT.**

The objectives of a D-REIT and the powers of a trustee of a D-REIT, as specified in the trust deed, shall be limited to—

- (a) the acquisition of eligible real estate, investment in eligible investments and the undertaking of real estate development, construction projects and associated activities which may, include housing projects involving—
  - (i) provision of buy to let housing;
  - (ii) tenant purchase schemes and arrangements;
  - (iii) development of to let housing for sale;
  - (iv) development of to hold and let housing;
  - (v) development of for sale housing; or

- (vi) any combination of the above, or any other form of provision of shelter, housing or accommodation;
- (b) the acquisition of eligible real estate, investment in eligible investments and the undertaking of real estate development and construction projects and associated activities which may include commercial and other real estate related development and construction projects;
- (c) marketing and sale of real estate;
- (d) retention and management of the real estate assets of the trust with the objective of earning income from the assets;
- (e) the undertaking of incidental and associated activities and activities related to the assets of the trust; and
- (f) such other activities as provided under these Regulations;

## **12. Objectives of I-REIT.**

The objectives of an I-REIT and the powers of the trustee of an I-REIT, as specified in the trust deed, shall be limited to—

- (a) the acquisition for long-term investment of income generating eligible real estate and eligible investments which, for the avoidance of doubt, may include housing, commercial and other real estate;
- (b) marketing and sale of real estate assets;
- (c) retention and management of the real estate assets of the trust with the objective of earning income from the assets;
- (d) the undertaking of incidental and associated activities and activities related with the assets of the trust;
- (e) the undertaking of development and construction activities as provided under these Regulations; and
- (f) such other activities as provided under these Regulations.



### **13. Restriction on provision of loans or mortgages by REITS.**

A D-REIT or an I-REIT shall not engage in the provision of mortgages or other forms of lending or debt finance except—

- (a) in the case of housing or other real estate assets developed or constructed by a D-REIT, the D-REIT may provide—
  - (i) a mortgage;
  - (ii) other form of secured loan;
  - (iii) secured finance; or
  - (iv) any form through a progressive purchase mechanism;  
for the purpose of assisting a tenant or other purchaser to acquire a housing from the D-REIT; or
- (b) where a D-REIT has provided finance to a purchaser and subsequently converts to an I-REIT, the I-REIT may continue to hold such loans or mortgages as assets but shall not engage in additional lending or provision of mortgages.

### **14. Reference to D-REIT and I-REIT to include a reference to the trustee.**

Reference of a REIT to a real estate investment scheme and reference to a D-REIT or an I-REIT in a provision which requires, empowers or authorises the real estate investment trust, real estate investment scheme, D-REIT or I-REIT to undertake any act or thing or imposes a restriction on the powers or imposes an obligation, shall be read as including a reference to the trustee of the REIT and where the context permits to the REIT manager as if it was a reference to the trustee or to the REIT manager.

## **PART III—AUTHORISATION OF REAL ESTATE INVESTMENT TRUST SCHEMES**

### **15. Restriction on offer and promotion.**

- (1) A person shall not—

- (a) issue or cause to be issued any advertisement—
  - (i) inviting any persons to become or offer to become an investor or a holder of REIT securities; or
  - (ii) containing information which may lead that person to directly or indirectly become a participant in such a scheme;
- (b) procure a person to become an investor or a holder of REIT securities, unless the REIT securities are for a scheme that has been authorised by the Authority.

(2) This regulation and regulation 16 shall not apply to an offer or issue made to a promoter or any person connected with the promoter or to the procurement of services of such a person to become a holder of REIT securities.

#### **16. Prohibited activities before an authorisation.**

A person shall not issue REIT securities in a real estate investment trust or in connection with a real estate trust investment scheme unless that person has made an application to the Authority for an authorisation and the Authority has granted the authorisation.

#### **17. Application for authorisation.**

(1) A promoter and a trustee shall jointly apply to the Authority for an authorisation of a real estate investment trust scheme.

(2) An application made under sub regulation (1) shall contain the information prescribed in Form 1, in Schedule 3; and specify if the scheme is to be authorised as an I-REIT or a D-REIT.

#### **18. Documents required upon application.**

- (1) An application under regulation 17 shall be accompanied by—
  - (a) the prescribed application fee;
  - (b) a draft trust deed or the trust deed;

- (c) a draft Prospectus or an Information Memorandum;
- (d) an agreement or draft management services agreement with the REIT manager;
- (e) an agreement or draft agreement with any property manager;
- (f) an agreement or draft agreement with the project manager certifier;
- (g) certified copies of any other scheme documents and of material contracts;
- (h) certified copies of valuation reports of properties vested in or to be vested in, acquired or transferred or to be acquired or transferred;
- (i) reports of experts and consents of experts to inclusion;
- (j) a legal opinion by an advocate in respect of—
  - (i) title, encumbrances and the terms of contracts and status of registration real estate and other assets vested in or detailed in the Prospectus or Information Memorandum that is to be vested in, acquired or transferred to the trustee as assets of the trust; and
  - (ii) the compliance of the trust deed with these Regulations;
- (k) a contract with the structural engineer and a certified copy of the report of the structural engineer;
- (l) audited financial statements of the REIT manager for the financial year immediately preceding the application for authorisation or related documentation that can confirm financial capacity of the REITS Manager;

- (m) audited financial statements of the trustee for the financial year immediately preceding the application for authorisation; and
- (n) such other documents as the Authority may determine from time to time.

(2) The Authority may require the applicant to furnish additional information, verification and copies of any additional documentation.

## **19. Authorisation orders.**

(1) The Authority may, after consideration of an application and upon determination that a scheme does not have a name that is undesirable or misleading, make an order declaring a real estate investment trust scheme to be an authorised scheme.

(2) An order under sub regulation (1) may include terms and conditions as the Authority considers fit.

(3) The Authorisation Certificate shall be in the Form 2 set out in Schedule 3 and shall not—

- (a) be construed as a recommendation as to the merits of a real estate investment trust scheme; or
- (b) render the Authority liable for any action in damages suffered by any person as a consequence of the authorisation.

## **20. Liability of the trustee, REIT manager or auditor.**

(1) Subject to regulation 26, 27, 45 and 49 in relation to a secondary disposition trustee, any provision in the scheme documents of a REIT scheme which exempts or purports to exempt a REIT manager, a trustee, a secondary disposition trustee or an auditor from liability for any failure to exercise due care and diligence in the discharge of their functions in respect of the REIT scheme is void provided that the trustee in an undertaking arrangement to borrow or finance the REIT scheme, is entitled to limit its liability for any money borrowed within the scope of its authority, to the assets of the fund.

(2) Notwithstanding any provision in the scheme documents, a trustee including a secondary disposition trustee, a REIT manager or an auditor shall be liable for any loss, damage or depreciation in the market value of the securities or other assets in which the scheme assets are invested where such loss, damage or depreciation arises—

- (a) in the case of the trustee or the REIT manager, from a breach of their fiduciary duties or obligations;
- (b) from the failure to exercise due care and diligence in the discharge of their functions;
- (c) from negligence whether professional or otherwise; or
- (d) from wilful default by the trustee, secondary disposition trustee, REIT manager or auditor or their agents, employees or associates.

## **21. Revocation of authorisation.**

(1) The Authority may revoke an authorisation of a real estate investment trust scheme, where the Authority has reason to believe—

- (a) that any requirement or condition for the granting of an authorisation is no longer satisfied;
- (b) that it is undesirable in the interests of the REIT securities holder or potential REIT securities holder that the scheme continues as an authorised scheme;
- (c) that any proposal to restructure the scheme including changing the trustee or the REIT manager would not adequately protect the interests of the REIT securities holders, or
- (d) that without prejudice to paragraph (b), that the trustee or REIT manager has—
  - (i) furnished the Authority with false, inaccurate or misleading information; or

- (ii) contravened any provisions or requirement under the Act or these Regulations.

(2) The Authority shall give the REIT an opportunity to be heard before it revokes an authorisation of a real estate investment trust scheme.

(3) For the purpose of sub regulation (1) the Authority may take into account any matter relating to the scheme, the trustee, the REIT manager or an officer or controller of the trustee or REIT manager or any director of, person employed by, or associated with the trustee or REIT manager in connection with the scheme.

(4) The Authority may also revoke an authorisation at the request of the trustee.

(5) Where the Authority proposes to revoke an authorisation under sub regulation (1)—

- (a) it shall give the trustee and the REIT manager a written notice of its intention to revoke the authorisation and provide them with the opportunity to make submissions in writing or in person;
- (b) it shall state in the notice—
  - (i) the reasons for which the Authority proposes to revoke the authorisation; and
  - (ii) that the trustee provides a copy of the notice, to the REIT securities holders.

## **22. Winding up of a real estate investment trust scheme.**

(1) The Authority may, where it has revoked an authorisation under regulation 21, apply to the court to appoint a person to wind up the real estate investment trust scheme.

(2) Where the Authority has made an application under sub regulation (1) the Authority shall—

- (a) give a written notice to the trustee and the REIT manager of the application; and
- (b) notify the REIT securities holders.

**23. Termination of a real estate trust scheme by the promoter, trustee or REIT manager.**

(1) Where the trustee initiates a revocation under regulation 21(4), the trustee shall apply to the Authority for termination of a real estate investment trust scheme.

(2) An application under sub regulation (1) shall be accompanied by a plan for winding up.

(3) The Authority shall approve the plan for winding up submitted under sub regulation (2), if the Authority is satisfied that the interests of the REIT securities holders are properly protected.

**24. Power of the court in winding up of a real estate investment trust scheme.**

(1) The trustee, the REIT manager or any REIT securities holder may make an application to court for an order to wind up the operations of an authorised scheme.

(2) The trustee or REIT manager shall give the Authority and REIT unit holders notice of the application being made and the grounds for the application.

(3) The Authority or the REIT securities holders shall upon application to wind up, notify the trustee or REIT manager their intention to wind up.

(4) The court may make an order under sub regulation (1) if the court is satisfied that—

- (a) the scheme is being operated in contravention of the relevant laws or the scheme documents;
- (b) it is in the interest of the REIT securities holders or in public interest to terminate the scheme; or
- (c) it is just and equitable to make the order.

**25. Restriction on the issue or offer of REIT securities.**

- (1) A person who invites another person—
  - (a) to enter into an agreement with the view to subscribe for REIT securities; or
  - (b) to acquire or underwrite the issue or offer of any REIT securities, shall be considered to be issuing or offering REIT securities.
- (2) A person shall not—
  - (a) make an offer of or issue REIT securities or other securities in respect of a REIT or a REIT scheme unless the offer or issue is made—
    - (i) in accordance with a Prospectus or an Information Memorandum which contains the information as set out in Form 3, as prescribed in Schedule 3 and has been approved by the Authority; and
    - (ii) in respect of a real estate investment trust scheme which has been authorised by the Authority either as a D-REIT or an I-REIT; or
  - (b) act as an agent in the sale, issue or offer of REIT securities unless that person is licenced by the Authority.
- (3) A prohibition under sub regulation (2) shall not restrict—



- (a) an offer of REIT securities to a promoter of a scheme or to a connected person;
- (b) a promoter or connected person from entering into an agreement to acquire REIT securities in exchange for or part exchange or the transfer of real estate into a proposed scheme; and
- (c) an offer or issue of REIT securities to a promoter or connected person which are subject to the restriction that the securities cannot be subsequently transferred by the promoter except as a consequence of the winding up or death of the promoter.

## **26. Obligations of a promoter in an initial offer or issue of REITs securities.**

(1) A promoter shall be deemed to be the offeror or issuer of the initial offer or issue of REIT securities to a person who is not a promoter or connected with the promoter and shall have continuing liability for—

- (a) any covenants and warranties contained in the Prospectus or Information Memorandum;
- (b) any misleading or deceptive statements made in any Prospectus or Information Memorandum; or
- (c) omissions from any Prospectus or Information Memorandum.

(2) Notwithstanding that the trustee is required under regulation 17, to be an applicant for authorisation of the scheme and the role that it plays in the issue of REIT securities, the trustee is not deemed to be the issuer and its liabilities may be limited to liability—

- (a) for covenants and warranties provided by the trustee; and
- (b) for misleading and deceptive statements in respect of the trustee that have been included in the Prospectus or Information Memorandum with approval of the trustee in its capacity as an expert.

## **27. Obligations of a REIT manager in a subsequent offer or issue of REITs securities.**

(1) A person who is a REIT manager at the time of a subsequent issue or offer of REIT securities made after the initial offer or issue shall be taken to be the issuer or offeror of any subsequent issue or offer and shall have continuing liability for—

- (a) any covenants or warranties provided by that REIT manager;
- (b) misleading or deceptive statements made in any Prospectus or Information Memorandum; and
- (c) omissions from any Prospectus or Information Memorandum,

made or issued by it while that person was the REIT manager notwithstanding that that REIT manager subsequently ceases to be the REIT manager.

(2) The liability of the trustee in the case of any subsequent offer shall be limited to liability for—

- (a) covenants and warranties provided by the trustee; and
- (b) misleading and deceptive statements in respect of—
  - (i) the trustee that have been included in the Prospectus or Information Memorandum with approval of the trustee in its capacity as an expert; and
  - (ii) Which the trustee is aware of or should have been aware of as a consequence of its role as trustee of the scheme.

## **PART IV—OFFERS IN RESPECT OF A D-REIT**

## **28. Offers in respect of a D-REIT.**

(1) An offer or an issue of D-REIT securities may only—

- (a) be made to professional investors;
- (b) be offered in minimum subscription or offer parcels of seven thousand five hundred currency points; and

(c) subject to these Regulations, be transferred to a party whom the REIT securities could have been issued or offered.

(2) A D-REIT shall have a minimum of seven investors.

(3) The minimum value of the initial assets of real estate investment trust in a D-REIT shall be two hundred fifty thousand currency points.

(4) A minimum of twenty-five percent of the total of REIT securities in the trust by value shall be free float however this provision shall not apply where additional REIT securities are issued to—

(a) the promoter;

(b) the REIT manager; or

(c) parties associated or connected with either the promoter or the REIT manager, for the funding of an unscheduled cost overrun on a development or construction, in circumstances that such REIT securities during the time that they are held by the promoter, REIT manager or a connected person or associated party shall not be entitled to voting rights in respect of such additional REIT securities but may be entitled to participate in any distribution in respect of such REIT securities.

(5) Subject to sub regulation (4), a minimum free float of twenty-five percent of the REIT securities on issue at any time shall be held by investors who are not connected persons or associated with the promoter or the REIT manager.

(6) The trustee shall decline to register any issue or transfer a REIT security if the trustee believes that the issue or transfer would result in non-compliance with the free float requirements.

(7) The trustee shall, in registering or declining to register an issue or a transfer under sub regulation (6), be entitled to rely on any certification given by the subscriber or transferee that he or she is not a connected person or associated with the promoter or the REIT manager.

## **29. Listing of D-REIT securities.**

D-REIT securities, if listed, may only be listed on a market segment of a securities exchange approved by the Authority which limits—

- (a) trading to a restricted minimum parcel size of seven thousand five hundred currency points; and
- (b) investors who may trade on such market segment of the securities exchange are restricted to those to whom an offer of the D-REIT securities could have been made.

## **PART V—OFFERS IN RESPECT OF AN I-REIT**

## **30. Offers in respect of an I-REIT.**

(1) An offer or an issue of REIT securities in an I-REIT shall be made either as—

- (a) an offer to professional investors in accordance with an Information Memorandum; or
- (b) an offer to the general public in accordance with a Prospectus.

(2) REIT securities in an I-REIT may be offered as a restricted offer in minimum subscription or offer parcels of seven thousand five hundred currency points and may, subject to these Regulations, only be transferred to a party to whom they could have been issued or offered.

(3) A I-REIT shall, subject to any greater number as may be required by the listing rules of a securities exchange, have a minimum of seven investors.

(4) The minimum value of the initial assets of a real estate investment trust in an I-REIT shall be four hundred and fifty thousand currency points.

(5) A minimum of twenty-five percent of the total of REIT securities in the trust by value shall be free float, however this provision shall not apply where additional REIT securities are issued to—

- (a) the promoter;
- (b) the REIT manager; or
- (c) any party associated or connected with either the promoter or the REIT manager, for the funding of an unscheduled cost overrun on a development or construction, provided that such REIT securities during the time that they are held by the promoter, REIT manager or a connected person or associated party shall not be entitled to voting rights in respect of such additional REIT securities but may be entitled to participate in any distribution in respect of such REIT securities.

(6) Subject to sub regulation (5), a minimum of twenty-five percent of the REIT securities on issue at any time shall be free float.

(7) The trustee shall decline to register any issue or transfer of a REIT security if the trustee believes that the issue or transfer would result in non-compliance with the free float requirements.

(8) The trustee shall, in registering or declining to register an issue or a transfer under sub regulation (7)), be entitled to rely on any certification given by the subscriber or transferee that that person is not a connected person or associated with the promoter or the REIT manager.

### **31. Listing of securities of an I-REIT.**

An issue or offer of REIT securities in an I-REIT, if made as—

- (a) an offer to the general public, shall be listed on a market segment of a securities exchange approved by the Authority; and
- (b) an offer to professional investors only, if listed, may only be listed on a market segment of a securities exchange authorised by the Authority which limits—

- (i) trading to a restricted minimum parcel size of seven thousand five hundred currency points; and
- (ii) investors who may trade on such market segment of a securities exchange to those to whom an offer of the securities could have been made.

## PART VI—PROVISIONS APPLYING TO OFFERS OF BOTH D-REITS AND I-REITS

### **32. Exception to limitations on transfers in case of a restricted issue or offer.**

The restrictions on transfers in a D-REIT or an I-REIT shall not operate to restrict—

- (a) transfers as a consequence of death or insolvency or other *in specie* transfer; or
- (b) prevent the trustee from registering a transfer;

provided that evidence has been submitted with the request for transfer which sufficiently establishes that the transferee is either a professional investor or that one of the exemptions applies.

### **33. Appointment of a transaction adviser.**

A person who proposes to make an offer or list REIT securities shall appoint a transaction adviser to ensure that the offer or listing is made in accordance with the provisions of these Regulations and the Act.

### **34. Appointment of a registrar.**

(1) An issuer shall, where an offer of REIT securities is to be listed, appoint a note registrar for the offer and listing of the REIT securities.

(2) A registrar appointed under sub regulation (1) shall comply with the requirements and responsibilities as may be prescribed by the Authority.

### **35. Publication of a Prospectus or an Information Memorandum.**

(1) An issuer or an offeror shall, in case of an offer which is—

- (a) made to the general public, publish a Prospectus by making it available to the public, without any charge, at an address in Uganda, from the time that the securities are first offered until the end of the period during which the offer remains open; and
- (b) made to professional investors, prepare an Information Memorandum and make it available to prospective investors.

(2) A person shall not publish or circulate a Prospectus or an Information Memorandum unless—

- (a) the real estate investment trust scheme has been authorised by the Authority; and
- (b) the Prospectus or Information Memorandum, as the case may be, has been approved by the Authority.

(3) The restrictions imposed by this regulation shall not operate to prevent the issue or offer of REIT securities to a promoter or a connected person or any person entering into an agreement to acquire REIT securities in exchange for or part exchange for the vesting or transfer of real estate into a proposed real estate investment trust scheme.

(4) A person shall not, without the prior written approval of the Authority, issue an advertisement announcing an issue or offer of REIT securities unless a Prospectus has been published and the advertisement gives an address in Uganda from which the Prospectus can be obtained.

(5) Where a real estate investment trust scheme desires to undergo a process of conversion under regulation 86 and 87, the REIT manager shall prepare and have a conversion Information Memorandum or a conversion Prospectus as the case may be, approved by the Authority.

(6) The Authority shall not be liable for any action in damages suffered by any person as a result of a Prospectus or Information Memorandum approved by the Authority.

### **36. Expert statement.**

(1) A Prospectus or an Information Memorandum shall not include a statement purporting to be made by an expert if that person is or has been, engaged or interested in the formation or promotion of the real estate investment trust scheme or the offer of the REIT securities or in the management of the promoter or the REIT manager or is a person connected with the promoter, the trustee or the REIT manager.

(2) A Prospectus or an Information Memorandum which includes a statement made by an expert or is based on a statement made by an expert shall not be issued unless the expert has given, and has not withdrawn, before issue of the Prospectus or Information Memorandum, written consent to the issue of the Prospectus or Information Memorandum and the inclusion of the statement in the form and context in which it is included.

### **37. Disclosure of financial structuring.**

(1) Any measures proposed in the Information Memorandum or subsequently introduced in the funding, structuring, management or operation of the REIT by way of structuring or financial structuring which may include—

- (a) deferral of REIT manager's fees;
- (b) the use of two classes of REIT securities one class of which for a limited period is entitled to no or a lower yield than other classes of REIT securities;
- (c) inclusion of tenancies with above market rents or minimum rental;
- (d) guarantees from the issuer or a connected person, or
- (e) other measures or interventions,

which are designed to or have the effect of improving the natural or unstructured yield or distribution levels in any financial year by more than five percent above those that would otherwise result from the net income generated from the assets of the fund without the adoption of such measures—



- (i) such measures shall be specifically disclosed and clearly identified in any Prospectus or Information Memorandum;
- (ii) the implications of the absence of, the removal or expiry of such measures on yield, cash flows, distributions and the risk profile of the REIT in the short and longer term shall be simply and clearly identified, and
- (iii) a sensitivity table shall be included in the Prospectus or Information Memorandum which demonstrates the impact of the measures.

(2) Where the measures in sub regulation (1) are introduced subsequent to the issue of any Prospectus or Information Memorandum, then the measures should be clearly identified and their impact should be reported as part of the continuing disclosure reporting under regulation 43 and in annual reports under regulation 103.

### **38. Approval of Prospectus or Information Memorandum.**

(1) The Authority may approve a Prospectus or Information Memorandum if the Prospectus or Information Memorandum—

- (a) has been signed by—
  - (i) the issuer;
  - (ii) the REIT manager and the trustee; and
  - (iii) an expert or other person who consents to the inclusion of statements made by them or undertakes the roles attributed to them including, but not limited to the property manager; any project manager certifier, valuer and the structural engineer;
- (b) contains all information which investors and their professional advisers would reasonably require, for the purposes of making an informed assessment of the—

- (i) assets, liabilities, financial position, profits, losses and prospects of the REIT scheme and the REIT securities; and
- (ii) rights attaching to those securities;
- (c) contains such information and particulars as set out in Form 3, Schedule 3 and
- (d) complies with such other requirements as prescribed by the Act.

(2) Approval by the Authority may be subject to such conditions or restrictions as the Authority may consider necessary.

(3) In the case of any supplemental Prospectus or supplemental Information Memorandum for which approval is sought by the issuer, the Prospectus or Information Memorandum shall meet the requirements under sub regulation (1) and the requirements as set out in Form 3, Schedule 3 as relate to a supplemental Prospectus or supplemental Information Memorandum.

(4) In the case of a conversion Prospectus for which approval is sought by the REIT manager in accordance with regulation 86, the conversion Prospectus shall meet the requirements under sub regulation (1) and the requirements as set out in Form 3, Schedule 3 as relate to a conversion Prospectus.

(5) The Authority may require the applicant whenever approval is sought to furnish additional information, verification and copies of additional documentation.

(6) A Prospectus or Information Memorandum approved by the Authority shall be valid for a period of six months.

(7) The Authority shall not be liable for any action in damages suffered by any person as a consequence of the Authority approving any Prospectus or Information Memorandum concerning the scheme.

(8) The approval of a Prospectus or an Information Memorandum by the Authority shall not operate to waive, relieve or reduce the obligation of any person to make a disclosure or provide a defence to any action under the Act or any other law.

### **39. Liability for a defective Prospectus or an Information Memorandum.**

(1) A person who—

- (a) makes a false, misleading or deceptive statement in a Prospectus or an Information Memorandum; or
- (b) omits information or a statement from a Prospectus or an Information Memorandum as required by these Regulations, commits an offence and is, liable on conviction to a fine not exceeding two hundred and fifty currency points or imprisonment not exceeding two years or both.

### **40. Remedy for unfair prejudice or conduct of a scheme.**

(1) The Authority may issue a direction where it reasonably believes that the affairs of a scheme are being or have been conducted—

- (a) in a manner prejudicial to the interests of—
  - (i) the REIT securities holders;
  - (ii) investors in the securities market; or
  - (iii) some part of REIT securities holders or investors; or
- (b) contrary to the law.

(2) A direction issued by the Authority under sub regulation (1) may—

- (a) restrain the carrying out of a particular act or conduct;
- (b) require the removal and replacement of the trustee or the REIT manager;

- (c) require the trustee to initiate proceedings in Court, in the name of the trustee for the benefit of REIT securities holders, against any person on such terms as the Authority considers fit;
- (d) impose conditions on the operations or conduct of affairs of the scheme in future;
- (e) specify the manner of—
  - (i) purchase of REIT securities of any REIT securities holder in the scheme; and
  - (ii) the redemption of any REIT securities.

(3) The Authority may, in addition to any direction issued under sub regulations (1) or (2), apply to Court for an order of appointment of a receiver or manager to wind up the operations of the scheme.

(4) The Court may in its discretion, after considering an application, make an order—

- (a) requiring the appointment of a receiver or manager for the whole or part of the assets of the scheme;
- (b) specifying the powers and duties of the receiver or manager.
- (c) provide for compensation; and
- (d) provide for the recovery of assets.

#### **41. Compensation for false or misleading Prospectus or Information Memorandum.**

(1) This regulation applies—

- (a) to an issuer of REIT securities to which a Prospectus or Information Memorandum relates;
- (b) where the issuer is a body corporate;

- (i) to each person who is a director of that body corporate at the time when the Prospectus or Information Memorandum is published; and
- (ii) to each person who has given his or her consent to be named and is so named in the Prospectus or Information Memorandum as a director or has agreed to become a director of that body corporate either immediately or at a future time;
- (c) to each person who accepts, and is stated in the Prospectus or Information Memorandum as accepting responsibility for, or for any part of, the Prospectus or Information Memorandum;
- (d) to the offeror of REIT securities, where the offeror is not the issuer;
- (e) where the offeror is a body corporate, but is not the issuer and is not making the offer in association with the issuer, to each person who is a director of that body corporate at the time when the Prospectus or Information Memorandum is published; and
- (f) to each person not falling within any of the foregoing paragraphs who has authorised the contents of, or of any part of the Prospectus or Information Memorandum including any expert who has consented to the inclusion of its report or opinion in the Prospectus or Information Memorandum.

(2) A person to whom sub regulation (1) applies, shall be jointly and severally liable to pay compensation to any person who acquires any of the REIT securities in reliance on the Prospectus or Information Memorandum, including acquisition in the secondary market, to which the Prospectus or Information Memorandum relates, and suffers loss as a result of—

- (a) any false or misleading statement in the Prospectus or Information Memorandum; or

- (b) the omission of any matter required by the Act or these Regulations to be included in the Prospectus or Information Memorandum.

(3) Notwithstanding the provisions of sub regulation (2), a person shall not be responsible for statements or warranties included in a Prospectus or an information Memorandum or scheme document—

- (a) under sub regulation (1)(a), (b) or (c), unless the issuer has made or authorised the offer in relation to which the Prospectus or Information Memorandum is published; or
- (b) under sub regulation (1)(b), (c), (e) or (f), if such statement is included or the Prospectus or Information Memorandum is published without his or her knowledge or consent and on becoming aware of its publication, that person forthwith gives reasonable notice to the public and to the Authority that the statement was included or Prospectus or information Memorandum was published without the knowledge or consent of that person.

(4) A person shall, where that person has accepted responsibility for, or authorised only part of the contents of a Prospectus or information Memorandum, be liable under sub regulation (1)(c) or (f) only for that part if it is included or substantially included in the form and context to which that person has agreed.

#### **42. Obligation to conduct due diligence.**

(1) An issuer or offeror, a transaction adviser and any person who is—

- (a) appointed or proposed to be appointed as a REIT manager;
- (b) involved or connected with the issue or offer of REIT securities or the issue of a supplemental Information Memorandum or supplemental Prospectus or conversion Prospectus or conversion Information Memorandum; or

- (c) named as an expert in the Prospectus or Information Memorandum;

shall conduct an independent verification and due diligence of all statements made by or attributed to it, to which it has consented to being included in the Prospectus or Information Memorandum and in respect of any covenants or warranties provided by it which are included, with consent, in the Prospectus or Information Memorandum or in any scheme document associated or the issue or offer of the REIT securities.

(2) A person shall not be held liable for a statement in or omission from a Prospectus or Information Memorandum or in respect of a representation, covenant or warranty in a scheme document if that person proves that, prior to making such statement, omission, representation or warranty, that person—

- (a) had made all inquiries, if any, that were reasonable in the circumstances, and
- (b) believed on reasonable grounds that the statement, representation, warranty or omission was not misleading, deceptive or material.

### **43. Continuing disclosure obligations of trustee and REIT manager.**

(1) A trustee and the REIT manager of a real estate investment trust scheme whose securities have been issued in accordance with an approved offer, shall keep the Authority, REIT securities holders, any approved securities exchange, and in the case of an unrestricted REIT scheme the general public informed by way of a public announcement, as soon as reasonably practicable, but in any event not later than the end of the next working day, of any information which the trustee or the REIT manager becomes aware of relating to the real estate investment trust, the REIT scheme, its assets or the REIT manager which is necessary—

- (a) to enable holders of REIT securities or potential investors to appraise—

- (i) the financial position, performance and the state of corporate governance of the real estate investment trust, the scheme or the REIT manager; or
  - (ii) the valuation of any asset of the real estate investment trust;
- (b) to avoid the establishment of a false market in the REIT securities; or
- (c) might reasonably be expected to materially affect market activity in the price of the REIT securities.

(2) The REIT Manager shall inform the trustee of any information which is not within the knowledge and control of the trustee which requires disclosure so as to enable the trustee to fulfil its obligations under sub regulation (1).

(3) Without prejudice to the general effect of sub regulation (2), the trustee shall ensure that the REIT manager has in place a mechanism for updating information on a regular basis and shall obtain, if necessary, updated information from any property manager, project manager certifier, valuer, structural engineer or the auditor who shall, if requested by the REIT manager or the trustee, provide all the necessary information to enable the trustee and the REIT manager to fulfil their obligations under sub regulation (1).

(4) The obligation to supply information under sub regulation (2) shall be in addition to the obligation to provide periodic reports under regulation 103 and the requirements of any approved securities exchange.

(5) Without prejudice to the general effect of sub regulation (2), the trustee and the REIT manager shall comply with a request for further information by the Authority.



**44. Trustee to be licenced by the Authority.**

(1) The trust deed for every real estate investment trust shall comply with Schedule 2 and shall appoint a person to act as a trustee of the real estate investment trust.

(2) A person who intends to act as a trustee in respect of—

- (a) a real estate investment trust scheme for which an authorisation is required; or
- (b) any real estate investment trust, shall make an application to the Authority to be licenced as a trustee.

**45. Eligibility for appointment as a trustee.**

(1) An application for a licence for a trustee may only be made by a financial institution as defined in the Financial Institutions Act or an insurance company as defined in the Insurance Act or such other financial institution as the Authority may prescribe.

(2) A trustee shall be independently audited and shall have a minimum issued and paid-up capital and non-distributable capital reserves of at least one hundred and fifty currency points.

(3) Where the trustee appointed is the sole trustee and is not a trust corporation the Authority may at the request of the trustee appoint a REIT manager as a secondary disposition trustee for the purposes of enabling compliance with powers limited to those necessary to allow execution of documents and undertake any other matters to allow compliance with the various land laws.

(4) Where the Authority appoints a person as a secondary disposition trustee pursuant to sub regulation (3), that person may if necessary be registered as a second trustee and at the request of the trustee may execute any documentation as a second trustee.

(5) The REIT manager may be appointed by the Authority to fulfil the role of a secondary disposition trustee notwithstanding that the REIT manager is not eligible to be appointed as a trustee and is not licenced as a trustee and in making an appointment the Authority may limit the powers of the secondary disposition trustee and impose such conditions as it considers necessary.

#### **46. Powers, obligations and duties of a trustee and any secondary disposition trustee.**

(1) The trustee, notwithstanding that it is the sole trustee, shall to the extent permissible by law have power to give a valid receipt for the proceeds of sale or other capital money arising under a disposition on trust for the sale of land.

(2) The scheme documents may provide for the obligations and general duties of a trustee provided the provisions are not in conflict with the Act or these Regulations.

(3) The trustee and the employees or officers of the trustee who undertake or supervise the carrying out of the role and functions of the trustee shall—

- (a) act in accordance with the terms of the trust deed and the scheme documents;
- (b) act honestly and in a fiduciary capacity as trustee in the best interests of the REIT securities holders as beneficiaries of the real estate investment trust;
- (c) fulfil the obligations and duties set out in the scheme documents in conformity with these Regulations;
- (d) act in accordance with any other law applicable to trustees;
- (e) maintain custody, hold and protect all the assets of the real estate investment trust, ensure they are held in the name of and where registration is provided for are registered in the name of the trustee and if required in the name of any secondary disposition trustee and ensure that all the necessary filings and registrations are recorded, undertaken and maintained;

- (f) protect interests of the real estate investment trust in any asset;
- (g) ensure that the assets are—
  - (i) clearly identified as the assets of the trust and the scheme; and
  - (ii) held separately from any other assets of the trustee and of any secondary disposition trustee and any other trust, scheme or person;
- (h) appoint the REIT manager to protect the interests of the beneficiaries, remove the REIT manager and appoint a substitute REIT manager;
- (i) act as the REIT manager on a temporary basis in any period where there is no other REIT manager until a new REIT manager is appointed;
- (j) supervise the activities of the REIT manager to ensure that they comply with the terms of the scheme documents and all relevant laws;
- (k) not delegate to the REIT manager except if appointed by the Authority as a secondary disposition trustee or to any other person not being an officer or employee of the trustee any function of or involving—
  - (i) supervision of the REIT manager; or
  - (ii) the custody or control of the assets of the scheme;
- (l) ensure that—
  - (i) the fund and the assets of the scheme are invested in accordance with the terms of the trust deed;
  - (ii) the income of the scheme is applied in accordance with the terms of the scheme documents;

- (iii) assets of the real estate investment trust which are insurable are insured and valued as required by the scheme documents;
  - (iv) all payments and distributions made out of the assets of the scheme are made in accordance with the terms of the scheme documents; and
  - (v) any borrowing limitations set out in the scheme documents are complied with;
  - (m) act in the best interests of the beneficiaries and if there is a conflict between the interests of the trustee and those of any beneficiary, then the trustee shall give priority and preference to the interest of the beneficiary; and
  - (n) not make use of confidential information acquired when acting as the trustee to gain an improper advantage for itself or for another person or to cause detriment to a beneficiary.
- (4) Where a trustee or secondary disposition trustee contravenes the obligations imposed on it by the scheme documents, any person who—
- (a) has been involved materially in;
  - (b) participated materially in; or
  - (c) authorised such contravention, commits an offence and is liable on conviction, to a fine of not exceeding two hundred and fifty currency points or imprisonment not exceeding two years or both.

#### **47. Instructions from a REIT manager.**

The trustee shall carry out the instructions of the REIT manager unless the trustee has reasonable cause to believe that compliance with such instructions would cause it to contravene the duties of the trustee under the scheme documents or any other relevant law.

#### **48. Change of address of the trustee.**

A trustee shall notify the Authority and the REIT securities holders within twenty-eight calendar days before the trustee changes its address, registered office or permanent place of business in Uganda.

#### **49. Liability of a trustee.**

In addition to any obligation imposed under regulation 20 or the scheme documents, the trustee may be liable to the holders of REIT securities as a fiduciary, and to the REIT manager for any loss suffered by them during its period as trustee or as a consequence of actions taken by it or which it failed to take during such period which are as a result of—

- (a) any failure by the trustee to perform its obligations; or
- (b) the trustee's improper performance of its obligations.

#### **50. Exemption from taking action in respect of REIT assets.**

(1) The trustee, may be exempted from taking action in respect of the assets of the real estate investment trust or on behalf of the REIT securities holders if the trustee has access to insufficient funds to pay the costs and expenses of taking such action and that—

- (a) the trustee has called a meeting of the beneficiaries or a class of beneficiaries;
- (b) the meeting called under paragraph (a) has failed to pass a resolution to provide the funds necessary to conduct the action or to provide the necessary funds within thirty days of the passing of such resolution; and
- (c) the trustee had given prior notice of the meeting to the Authority.

#### **51. Register of REIT securities holders.**

(1) The trustee shall establish and maintain a register of REIT securities holders of the scheme in a manner approved by the Authority.

(2) The trustee may, with the prior written approval of the Authority, appoint another person to establish and maintain the register on behalf of the trustee.

(3) The register shall be conclusive evidence as to the persons respectively entitled to the REIT securities registered in their name.

## **52. Voluntary resignation of trustee.**

(1) The scheme documents may provide for the legal entitlements of trustee upon retirement.

(2) A trustee shall not resign as trustee unless another person eligible to be appointed a trustee has been appointed to act as the trustee.

(3) If the trustee wishes to resign he or she shall give not less than three months' notice in writing to the Authority, the REIT manager and the REIT securities holders of his or her desire to resign and shall set out in such notice its reasons for wanting to retire.

(4) The REIT manager in consultation with the trustee shall negotiate with alternative parties who are eligible to be appointed to undertake the role of trustee and within two months from the date of the notice, the trustee may call a meeting at the expense of the trustee, of REIT securities holders for the purposes of considering and passing a special resolution in respect of any recommendation to appoint a new trustee.

(5) The notice of meeting shall include—

- (a) the consent in writing of any proposed trustee and an acceptance of the appointment;
- (b) the terms of the appointment including fees;
- (c) a copy of the supplemental deed; and
- (d) the approval of the Authority to any appointment.

(6) In the event that the REIT manager is unable to find a replacement trustee or the REIT securities holders fail to consent to the appointment of any proposed replacement trustee before the expiry of the period specified in the notice given in sub regulation (3), the trustee may advise the Authority, the REIT manager and the REIT securities holders of its intention to make an application to the Court for the appointment of an eligible replacement trustee as provided under regulation 45.

(7) The appointment of a new trustee shall take effect—

- (a) in the case of a trustee appointed by the-REIT securities holders, from the latter of the date of execution by the new trustee of a supplemental trust deed and date of the completion of the transfer or vesting in the new trustee of all of the assets of the trust; and
- (b) in the case of a trustee appointed by the Court, from the date specified by the Court.

(8) All costs and expenses of or related to the resignation, change and replacement of a trustee including those of the REIT manager shall be the responsibility of the trustee.

(9) This regulation shall not override any provisions in the scheme document which limit the trustee's right to resign or any right of action that a replacement trustee or the REIT securities holders may have against the trustee.

### **53. Removal and replacement of a trustee.**

(1) The scheme documents shall provide for a procedure for the removal and replacement of a trustee.

(2) The Authority shall in all circumstances other than where removal is ordered by Court, approve any removal and replacement of the trustee.

(3) The REIT securities holders shall, by way of a special resolution, approve any removal and replacement of a trustee where the removal and replacement of the trustee is not ordered by the Court or the Authority.

(4) The REIT manager shall call and convene a meeting of the REIT securities holders within one month of it becoming aware—

- (a) that a court of competent jurisdiction has ordered for the liquidation of the trustee except in case of a voluntary liquidation for the purpose of reconstruction or amalgamation under a scheme approved by the Authority;
- (b) that a manager or a receiver is appointed over any of the trustee's assets; or
- (c) that the trustee has ceased to be eligible for appointment as provided for under regulation 45.

(5) The purpose of the meeting called under sub regulation (4), shall be to consider the recommendation by the REIT manager on the appointment of a replacement trustee or make an application to the Court to appoint a person eligible for appointment as provided under regulation 45 as a replacement trustee or as a temporary trustee and the notice of the meeting shall include—

- (a) in the case where the recommendation is made for the appointment of a replacement trustee—
  - (i) the consent in writing of any proposed trustee and an acceptance of the appointment;
  - (ii) the terms of the appointment and the fees involved;
  - (iii) the approval of the Authority to the appointment of a new trustee; and
  - (iv) the supplementary trust deed;



- (b) an alternative recommendation that, in the event that a replacement cannot be found or is not approved by a special resolution at the meeting of REIT unit holders, an application be made to the Court for the appointment of a replacement trustee or a temporary trustee.

(6) In the event that the REIT manager is unable to find a replacement trustee or the REIT securities holders fail to consent to the appointment of a proposed replacement trustee or to approve an application being made to the Court then the REIT Manager shall—

- (a) advise the Authority, and
- (b) as soon as possible, make an application to court for the appointment of a person that is eligible for appointment under regulation 45 as a replacement or temporary trustee.

(7) A REIT manager shall give a three months' notice of removal in writing to the trustee, with the approval of the Authority where—

- (a) the trustee fails or neglects to carry out or satisfy any duty imposed on the trustee in accordance with the scheme documents and the relevant laws; or
- (b) the trustee is in repeated breach of the Act, the scheme documents or any written law.

(8) Subject to sub regulation (7), the REIT securities holders may by ordinary or special resolution resolve—

- (a) that a notice of removal be given to the trustee;
- (b) that the appointment of a replacement trustee be approved; or
- (c) that an application to court for the appointment of a replacement trustee or temporary trustee be made.

(9) The appointment of a replacement trustee shall take effect—

- (a) in the case of a trustee appointed by the REIT securities holders, from the latter of the date of execution by the new trustee of a supplemental trust deed and date of the completion of the transfer or vesting in the new trustee of all of the assets of the trust; and
- (b) in the case of a trustee appointed by court from the date specified by the Court.

(10) The trustee shall, where the trustee is removed, resigns or is otherwise replaced immediately—

- (a) make available to the replacement trustee, all books, records, reports, information and data including access to software and source code which is within the possession or control of the trustee relating to the activities of the scheme or the assets of the trusts; and
- (b) execute such notices to tenants, assignments and novations of contracts as may be required.

#### **54. Notification of contraventions.**

The trustee shall, in addition to preparing any periodic reports required under the law or any listing rules, notify the Authority, in writing—

- (a) immediately after becoming aware of any matter or failure, act or omission by the REIT manager or any other party involved in the real estate investment trust scheme, which constitutes a breach or contravention of any of the provisions of the Act or the scheme documents; and
- (b) of any steps taken or proposed to be taken by the trustee to ensure that the breach or contravention is rectified as soon as is reasonably practicable.

### **PART VIII—APPOINTMENT, REMOVAL AND OBLIGATIONS OF A REIT MANAGER**

#### **55. Appointment of a REIT manager.**

(1) The scheme documents shall provide for the appointment, resignation and removal of a REIT manager.

(2) The Authority may authorise a scheme to be self-managed by a company which is wholly owned and controlled by the trustee and is an eligible asset of the real estate investment trust.

(3) In considering whether a scheme should be self-managed the Authority shall take into account—

- (a) the type, objectives, history and performance of the REIT and the number and type of REIT securities holders;
- (b) the proposed terms of appointment;
- (c) the resources including, human, systems and financial resources that will be available to the company;
- (d) the experience of the directors and senior management of the company;
- (e) the experience and history of performance of the trustee and the resources available to it;
- (f) the potential for conflicts of interest and the powers of the trustee and REIT securities holders—
  - (i) to remove the company as REIT manager;
  - (ii) to appoint the directors of the company;
  - (iii) to limit conflicts of interest including the remuneration of directors and employees of the company;
  - (iv) to limit the risks to the fund and to the unit holders including the availability of insurance in respect of negligent acts by the company as REIT manager or its directors; and
  - (v) to control other factors that the Authority considers relevant in the interests of REIT securities holders;
- (g) the amendments proposed to the trust deed and the scheme documents to reflect the scheme as self-managed.

(4) Where the Authority authorises self-management through a wholly owned company, the Act shall, except where expressly provided for, apply to the REIT manager notwithstanding that it is a company that is wholly owned.

(5) Any approval by the Authority for a scheme to be self-managed, shall be conditional upon the trustee and the REIT securities holders approving the appointment and the terms of the appointment.

(6) A REIT manager can only manage one real estate investment trust scheme unless otherwise authorised by the Authority.

(7) Every REIT manager shall be appointed by the trustee with the prior approval of the Authority.

## **56. Eligibility for appointment.**

(1) A person appointed as a REIT manager of a REIT scheme or any real estate investment trust shall be a person licenced by the Authority as provided under regulation 124.

(2) The REIT manager shall be a company—

- (a) incorporated or registered in Uganda;
- (b) licenced as a collective investment scheme operator as provided for by the Act;
- (c) which demonstrates that it has—
  - (i) key personnel with the experience and skills in real estate to manage the scheme;
  - (ii) the key personnel have the experience and skills in real estate to implement the objectives of the scheme and to permit it to undertake the role of and duties as REIT manager, including property management, in compliance with the law; or

- (iii) access to and will appoint from time to time as required persons having the required skills to enable it to implement the objectives of the scheme and to permit it to undertake the role of and duties as REIT manager, including property management, in compliance with the law;
- (d) that has a minimum paid up capital of ten thousand currency points; and
- (e) that is independently audited.

(3) The REIT manager may be associated with the promoter but the board of directors of the REIT manager shall be comprised of at least two independent directors one of whom shall be appointed as the Chairperson.

(4) Where a REIT scheme is, with the approval of the Authority, self-managed, then the directors of the REIT manager shall be appointed by and subject to removal by the trustee.

(5) The REIT manager shall appoint a property manager approved by the trustee to manage the real estates of the fund and shall be a person with the necessary experience and expertise in real estate management.

(6) The REIT Manager shall be responsible for—

- (a) the actions of any property manager; and
- (b) supervising the property manager to ensure that the property manager complies with the terms of scheme documents and the related laws.

## **57. Duties of a REIT manager.**

(1) The scheme documents shall provide for the legal obligations and duties of the REIT manager.

(2) The REIT manager shall subject to the terms of the scheme documents and any directions in writing received from the trustee, in the performance of its duties, act in the best interests of REIT securities holders as beneficiaries of the real estate investment trust and take reasonable care to protect those interests, and in particular—

- (a) acquire, manage, maintain and dispose assets of the scheme and where authorised by the scheme documents, conduct development and construction activities—
  - (i) in accordance with the provisions of the Act and these Regulations;
  - (ii) in accordance with the scheme documents;
  - (iii) in accordance with the law applicable from time to time to trusts; and
  - (iv) to give effect to the objectives of the scheme;
- (b) take all reasonable steps and exercise due diligence to avoid the assets of the scheme being invested in contravention of the scheme documents and the related laws;
- (c) while acting in the capacity as a fiduciary on behalf of the REIT securities holders—
  - (i) exercise a degree of care and diligence that a reasonable and skilled person would exercise in the position of a REIT Manager;
  - (ii) act in the best interests of the REIT securities holders and if there is a conflict between the interests of the REIT securities holders and that of the REIT manager, give priority to the interests of REIT securities holders;
  - (iii) observe high standards of integrity and fair dealing in managing the fund to the best and exclusive interests of the REIT securities holders;

- (iv) not improperly make use of information acquired by being the REIT manager to gain an improper advantage for itself or other persons, or to cause detriment to the REIT securities holders;
- (v) ensure that the property of the fund is clearly identified and held separately from the assets of the REIT manager or any other person;
- (vi) establish and maintain risk management systems and controls and ensure that it has adequate resources and systems, including suitably qualified and equipped human resources to fulfil the functions and obligations of a REIT manager;
- (d) account to the trustee and the REIT securities holders for any loss suffered by the fund as a result of the REIT manager, any director of the REIT manager, any officer, employee or agent including any property manager appointed by the REIT manager for failure to exercise the required standard of care and diligence necessary to operate and manage the fund;
- (e) maintain on behalf of the trustee proper accounting records and other records to enable an accurate view of the fund to be formed;
- (f) prepare accounts as provided under regulation 103 in the prescribed form;
- (g) provide all assistance necessary to permit the accounts prepared under paragraph (f) to be audited as provided in these Regulations;
- (h) take all reasonable steps and exercise due diligence to assist and ensure that the assets of the trust are valued as required under regulation 113;

- (i) obtain tenants and manage tenancy arrangements;
- (j) carry out or cause to be carried out all property management functions in compliance with applicable laws;
- (k) obtain quotes for insurance of the assets of the trust and make recommendations to the trustee;
- (l) prepare budgets for capital works and maintenance of the assets of the trust;
- (m) recommend to the trustee for approval, the budgets for capital works and maintenance prepared under paragraph (l);
- (n) implement approved budgets, capital works and maintenance programmes;
- (o) prepare budgets and work programmes, negotiate contracts to be recommended to the trustee for approval in relation to the development and construction works including the appointment of contractors and professional and expert advisors;
- (p) implement any budgets, work programmes and contracts approved by the trustee in relation to development and construction works, update budgets and work programmes as required and recommend changes to the trustee;
- (q) prepare and submit to the trustee recommendations on distributions;
- (r) undertake all calculations including calculations of net asset values and ratios required to comply with the terms of the scheme documents, the Act and these Regulations;
- (s) arrange and recommend to the trustee for approval any borrowings or other financing arrangements and the entering into of any risk management products or strategies;



- (t) make recommendations to the trustee and manage repayment and compliance with the terms of any borrowing arrangement under paragraph (s);
- (u) in the case of an unlisted trust, take all reasonable steps and exercise due diligence to ensure that the REIT securities are correctly priced and redemption provisions of the scheme documents are complied with;
- (v) prepare and lodge with the Authority and circulate to the trustee and REIT securities holders periodic reports as required under these Regulations;
- (w) in the case of an unrestricted issue I-REIT, ensure that the scheme documents are made available for inspection by the public in Uganda, without any charge at all times during normal office hours, and make copies of such documents available upon the payment of a reasonable fee; and
- (x) in the case of a D-REIT, ensure that the scheme documents are available to any REIT securities holder or person who is potentially qualified to be a REIT securities holder.

## **58. Connected party transactions.**

(1) A REIT manager shall conduct all transactions in an open and transparent manner.

(2) A REIT manager shall—

- (a) not act or conduct transactions in a manner that would result in unnecessary cost or risk to the fund; and
- (b) at all times, in fulfilment of its fiduciary obligations to the REIT securities holders, act in the best interests of the REIT securities holders.

(3) A REIT manager shall comply with regulation 120 if the REIT manager wishes to conduct a transaction with a connected person.

**59. Change of address.**

A REIT Manager shall notify the Authority and the REIT securities holders, not less than twenty-eight calendar days before the REIT manager changes its address, its registered office or permanent place of business in Uganda.

**60. Trustee requests to a REIT manager.**

The REIT manager shall—

- (a) at the request of the trustee, supply the trustee with such information concerning the administration of the fund and of the real estate investment trust and the scheme as the trustee may reasonably require;
- (b) comply with any lawful directions given by the trustee for the purposes of satisfying paragraph (a);
- (c) prepare and make available on a timely basis, any additional information as may be required from time to time by the Authority, auditor, any property manager or project manager certifier or the trustee;
- (d) grant the trustee and any auditor access to the books of accounts and records of the REIT manager, the trust or the scheme or the fund, and
- (e) ensure that the trustee is provided, on a timely basis, with the necessary information to ensure that the continuing disclosure obligations under these Regulations are complied with.

**61. Removal and replacement of a REIT manager.**

(1) The Authority shall, in all circumstances other than where the removal is ordered by the Court, approve any removal and replacement of a REIT manager including the appointment of a replacement REIT manager where the REIT manager resigns or is not reappointed by the trustee.

(2) The trustee shall convene a meeting of REIT securities holders for purposes of approving the removal of the REIT manager and the appointment of a replacement REIT manager where—

- (a) a court of competent jurisdiction orders the liquidation of the REIT manager for the purpose of reconstruction or amalgamation under a scheme approved by the Authority;
- (b) a manager or a receiver is appointed over any of the REIT manager's assets;
- (c) the REIT manager ceases to be eligible for appointment under regulation 56.
- (d) the REIT manager is in repeated breach of the scheme documents and the related laws; or
- (e) the trustee is of the opinion that a change is in the interests of the REIT securities holders or is necessary to protect the assets of the trust.

(3) All costs and expenses of or related to the replacement of the REIT manager pursuant to the operation of this regulation including those of the trustee shall be the responsibility of the REIT manager.

(4) The resignation of a REIT manager shall not be effective until a replacement has been appointed by the trustee and the appointment approved by the Authority.

(5) Where the REIT manager is removed, resigns or is otherwise replaced, he or she shall immediately on taking effect of the removal, resignation or change—

- (a) make available to the trustee and to any newly appointed REIT manager, all books, records, reports, information and data including access to software and source code which is within the possession or control of that REIT manager relating to the activities of the scheme or the assets of the trusts; and

- (b) execute such notices to tenants, assignments and novation of contracts as may be required by the trustee.

## PART IX—SPECIFIC REQUIREMENTS FOR I-REITS

### **62. Investments and objectives of an I-REIT.**

The investments of an I-REIT real estate investment trust scheme shall—

- (a) comply with the Act and these Regulations; and
- (b) be relevant, appropriate and consistent with the investment objectives of the real estate investment trust and scheme as set out in the Prospectus or Information Memorandum and other scheme documents.

### **63. Investments in real estate related securities.**

(1) A fund's property may consist of real estate related securities subject to the following—

- (a) that the securities are traded on an approved securities exchange in or outside Uganda;
- (b) spread limits where—
  - (i) the value of a fund's investments in securities issued by any single issuer shall not exceed five percent of the fund's total asset value; and
  - (ii) the value of a fund's investments in securities issued by any group of companies shall not exceed ten percent of the fund's total asset value;
- (c) concentration limits where a fund's investments in any class of securities shall not exceed ten percent of the securities issued by any single issuer.

(2) The REIT manager shall ensure that the investment limits and restrictions are complied with at all times based on the most up-to-date value of the fund's property.

(3) The limits and restrictions in sub regulation (1) do not apply to securities issued or guaranteed by the Government or a Central Bank.

(4) In determining compliance with the limits or restrictions, any accrued entitlement on the securities held by the fund may be excluded except that the entitlement should not be exercised if the exercise results in the breach of any limit or restriction.

(5) Notwithstanding sub regulation (4) the right of convertibility may be exercised if it results in a breach of any limit or restriction, provided there are justifiable reasons and prior approval of the trustee has been obtained.

(6) The REIT Manager shall take all necessary steps and actions to rectify the breach within one month from the date of the breach.

(7) In determining compliance with the limits and restrictions, the use of the fund's latest total asset value shall be made as disclosed in the latest published audited accounts of the fund and adjusted for any subsequent transaction since the publication of such accounts.

#### **64. Investments in foreign real estates or markets.**

(1) Where a fund proposes to acquire a real estate located outside Uganda, the REIT Manager shall ensure that such an acquisition is in the best interests of the fund and its unit holders.

(2) The REIT Manager shall before acquiring the real estate under sub regulation (1), take into account various factors, including—

- (a) entry barriers, such as foreign ownership restrictions, foreign exchange and remittance control, and anti-trust or competition provisions;
- (b) economic and political environment, legal, judicial and accounting systems, and the real estate market in the foreign country;

- (c) operational barriers, such as enforcement of legal rights as landlord and transparency of accounting and financial reporting systems;
- (d) taxation matters that may affect operations of a fund investing in the foreign country concerned;
- (e) the existence of a foreign entity where applicable to whom functions are delegated, the ability of the REIT manager to maintain sufficient ongoing supervision of such foreign entity and the presence of any constraint or limitation in engaging such an entity;
- (f) possible exit strategies or mechanisms for the foreign market and termination arrangements for the fund's foreign investments; and
- (g) practical and effective measures that will address any issue or mitigate the risks that may arise out of the foreign investment.

(3) Notwithstanding regulation 67(1) a fund which acquires or owns real estates located outside Uganda may participate in forward sales or purchases in any currency of choice and its participation in the forward contracts shall be allowed for the following purposes—

- (a) hedging for a specific real estate and a specific cash flow; and
- (b) risk-management purposes limited to the fund's existing exposure.

(4) A foreign market, for investments in real estate-related assets and non-real estate-related assets, is an eligible market with satisfactory provisions relating to—

- (a) the regulation of the foreign market;
- (b) the general carrying on of business in the market with due regard to the interests of the public;
- (c) the adequacy of market information;

- (d) corporate governance;
- (e) the discipline of participants for conduct inconsistent with just and equitable principles in the transaction of business, or for a contravention of, or a failure to comply with, the rules of the market; and
- (f) the arrangements for the unimpeded transmission of income and capital from the foreign market to the fund.

(4) Notwithstanding sub regulation (4), investments in real-estate related assets and non-real estate-related assets are limited to foreign markets where the regulatory authority is a member of the International Organisation of Securities Commissions (IOSCO).

## **65. Eligible investments for I-REIT and income requirements.**

(1) The trustee of an I-REIT may, provided that the shares or REIT securities are listed on an approved securities exchange and subject to any limitations which may be included in the scheme documents and if requested by the REIT manager, invest—

- (a) directly in eligible real estate, except where it is prohibited by the Act or these Regulations;
- (b) in eligible real estate assets;
- (c) in cash, deposits, bonds, securities and money market instruments;
- (d) in a wholly beneficially owned and controlled subsidiary which conducts real estate related activities; and
- (e) in other income producing assets including shares in property companies incorporated in Uganda or elsewhere whose principal business is real estate related or REIT securities in other Ugandan I-REITS.

(2) The requirements to be the sole trustee, shall not be applicable where a secondary disposition trustee is appointed.

(3) The trustee and the REIT manager shall only invest in accordance with the Act.

(4) The promoter of an I-REIT and the REIT manager shall nominate in the Prospectus or Information Memorandum at least one real estate asset that is already vested or it is proposed will be acquired and vested in the trust and for which all legal registration requirements will have been completed within one hundred and eighty days of the closing of the initial offer.

(5) In order to enable the trustee and the REIT manager to meet their obligations under regulation 67—

- (a) in the event that the requirements of sub regulation (4) have not been complied with during the intervening period from the close of the initial offer or issue referred to in sub regulation (4); and
- (b) until the vesting of the nominated real estate asset in the trust and the completion of all registration requirements has been done, the funds raised by the initial offer and issue of REIT securities shall only be invested in bank deposits or other liquid investments with a duration not exceeding one hundred and eighty days.

(5) An I-REIT shall have invested, within two years of the date of its authorisation as a real estate investment trust scheme, at least seventy-five percent of the total net asset value in income producing real estate.

(7) A fund's investment in non-real estate related assets and or cash deposits and money market instruments shall not exceed twenty-five percent of a fund's total asset value.

(8) The trustee and the REIT manager shall, in fulfilling the requirements under sub regulation (6), ensure that the real estate acquired or to be acquired as an asset of the I-REIT is—



- (a) tenanted on a commercial basis to commercial rent paying tenants;
- (b) has good prospects for future net rental income and is competitively located as evidenced by market studies;
- (c) is competitive and located within good catchment areas as evidenced by market studies;
- (d) is free from encumbrances at the time of acquisition except for any charges entered into by the trustee as authorised by the trust deed, the Act and these Regulations; and
- (e) in a good state of repair or if requiring redevelopment or capital expenditure, this has been factored into the purchase price as reflected in the—
  - (i) valuation obtained prior to the acquisition;
  - (ii) the budget prepared by the REIT manager; and
  - (iii) disclosures in the report of the structural engineer obtained on the condition of the real estate to be acquired.

(9) Notwithstanding sub regulation (8), an I-REIT may acquire a real estate which is not fully tenanted at the time of acquisition provided that—

- (a) the REIT manager reasonably believes that there is good potential to secure tenants within a reasonable period of time at a commercial rate;
- (b) any capital expenditure required to be incurred to enhance the real estate and secure tenants would not materially affect the level of distributions or the yield to REIT unit holders;
- (c) the REIT manager has provided certification of under paragraphs (a) and (b) to the trustee prior to the acquisition; and

(d) the acquisition will yield a reasonable return within a reasonable period of time.

(10) A REIT manager shall ensure that—

(a) an acquisition of a real estate includes the ownership of all rights, interests, and benefits related to the ownership of real estate; and

(b) the fund has majority ownership and control in the real estate acquired to enable the fund to exercise all rights and interests over the real estate without hindrance.

(11) Notwithstanding sub regulation (9), a fund may acquire real estate where it does not have majority ownership and control provided that—

(a) the total value of the real estates does not exceed twenty-five percent of the fund's total asset value after acquisition;

(b) the acquisition of the real estates is in the best interest of the unit holders;

(c) the fund has legal title and beneficial interest in these real estates; and

(d) there are clear disclosures in the fund's offer document or notification to unit holders of risks associated with holding real estates with no majority control.

(12) For leasehold real estates, a REIT manager shall ensure that -

(a) the consent of the relevant authority to transfer the lease has been obtained before the fund's Prospectus is registered with the Authority or where it is an excluded offer, the information Memorandum is deposited with the Authority or prior to the acquisition of the leasehold property in case of an existing fund; and

(b) the lease is registered.

(13) For real estates under construction, a fund may enter into an arrangement or agreement at any stage during the construction phase to acquire the real estate, provided the following terms are met—

- (a) income from real estates within the fund's investment portfolio is sufficient to ensure that there is no substantial dilution to the fund's earnings per unit during the construction period;
- (b) the purchase agreement is made subject to the completion of the building with sufficient cover for construction risks;
- (c) the construction of the real estate is carried out on terms which are the best available for the fund and at an arm's length transaction between independent parties;
- (d) the prospects for the real estate to be acquired upon its completion is reasonably expected to be favourable; and
- (e) the total value of real estates under construction acquired by the fund does not exceed ten percent of the fund's total asset value after the acquisition.

(14) For real estates located outside Uganda, the REIT manager shall ensure that the relevant rules, guidelines and laws are complied with and that approvals and authorisations from the relevant authorities, foreign or domestic have been obtained prior to the acquisition.

(15) All real estates acquired by a fund shall be insured to the full replacement value, including loss of rental, where appropriate, with insurance companies approved by the trustee.

(16) The trustee and the REIT manager shall, where the real estate acquired is leasehold, ensure that—

- (a) at the time of entering into the lease, the lease has a remaining term of at least 15 years however the term may be revised by the Authority;

- (b) prior to entering into the lease, a certificate by a structural engineer has been obtained in respect of the real estate;
- (c) the real estate has been valued as a leasehold;
- (d) the lease is registered and a certificate of title is issued; and
- (e) the planning approval for the developments on the eligible real estate shall be provided by the relevant authorities.

(17) Where a real estate asset is disposed by the trustee of an I-REIT or a new issue of REIT securities has been made, there shall be no breach of obligations under sub regulation (6) if within a period of one year from the completion of the disposition or from the issue of REIT securities, the trustee on behalf of the I-REIT at the request of the REIT manager either acquires additional or substitute real estate assets or makes an additional distribution to REIT securities holders so as to reduce its total assets.

(18) The trustee of an I-REIT and the REIT manager shall ensure that investments in cash, deposits, bonds and money market instruments are spread across a number of issuers, securities and instruments to ensure that not more than five percent of the total asset value is exposed to any issuer or institution or to members of the same group provided that—

- (a) this restriction shall not apply to deposits, bonds or securities issued by or guaranteed by the Government of Uganda or to deposits with a financial institution licenced in Uganda; and
- (b) the requirements of this paragraph shall not be breached where a limit is exceeded but rectified within a period of one month from the day on which the limit was exceeded.

(19) Subject to the terms of the trust deed and where not specifically authorised by the trust deed with the consent of the REIT securities holders, the REIT manager may request the trustee of an I-REIT to invest up to a maximum of ten percent of the total asset value in a wholly owned and controlled company of the REIT manager carrying out real estate related activities which may include—

- (a) property management;
- (b) REIT management;
- (c) property maintenance or design or the provision of services to tenants or to the I-REIT, but shall not include the provision of mortgages or finance.

(20) For the purpose of determining the level of the investment that can be made under this regulation, the percentage shall be calculated by reference to the amount of the proposed investment and the total asset value at the date on which the investment is made.

## **66. Consequences of failure to invest in real estate within one hundred and eighty days.**

(1) Where an investment in real estate has not been completed in accordance with the requirements of these Regulations within one hundred and eighty days, the trustee shall within fourteen days after the expiry of the period for investment refund in full all monies paid into the fund by investors in REIT securities together with any interest or earnings on the amount subscribed and without making any deductions other than the withholding of any amounts required by law in respect of interest or other income.

(2) Failure to complete the nominated investment in real estate shall not constitute an offence but failure to refund monies within the specified period shall constitute an offence on the part of the promoter, the trustee and the REIT manager.

## **67. Acquisition and disposal of real estate and price.**

- (1) The trustee of an I-REIT shall not—
  - (a) acquire a real estate at a price which exceeds the price in the valuation report by more than ten percent unless the acquisition is approved by a special resolution of the REIT securities holders; or

- (b) dispose of a real estate at a price lower than ninety percent of the value assessed in the valuation report unless the disposal is approved by a special resolution of the REIT securities holders.

(2) Where the disposal of an asset would exceed fifty percent of the total asset value, the disposal shall be sanctioned by an ordinary resolution of REIT securities holders prior to the trustee entering into a binding contract for disposal except where a disposal is for the purpose of terminating or winding up an I-REIT.

(3) A REIT manager shall not recommend and a trustee of an I-REIT shall not enter into a binding contract which can only be terminated on the payment of penalties in connection with a transaction to which sub regulation (1) applies, unless approval from where has been obtained.

#### **68. Investments in single purpose companies.**

(1) In acquiring a single-purpose company that owns a real estate, a REIT manager shall ensure that—

- (a) the acquisition is in the best interests of unit holders;
- (b) there are valid commercial reasons for acquiring the company instead of the real estate;
- (c) the real estates owned by the single-purpose company complies with regulation 65(8) -(13);
- (d) where the circumstances under paragraph (c) are not possible, the fund shall wholly acquire equities of the single-purpose company that will ensure it has majority ownership and control of the company to enable it to exercise an effective control over the company and to exercise all rights and interests over the real estate without hindrance;
- (e) the fund shall not assume any liability of the single-purpose company it is acquiring, except for the commitments under regulation 65; and

- (f) the value of the single-purpose company is backed by the value of the real estate.

(2) In disposing of investments in a single-purpose company, the REIT manager shall ensure that regulation 67(2) is complied with.

## **69. Partial ownership of properties.**

(1) Interests in a real estate acquired as an asset by the trustee of an I-REIT including where the investment by the REIT is held through its investment in investee companies or investee trusts shall—

- (a) not consist of partial ownership of real estate assets;
- (b) in the case of a real estate which is on a freehold land, from the time of acquisition, the real estate asset shall be wholly owned and controlled by the trustee who shall exercise all rights, interests and benefits normally enjoyed by an owner without hindrance; and
- (c) in the case of a real estate which is on a leasehold land, from the time of entering into the lease, the trustee shall have sole rights, interests or benefits normally enjoyed by a lessee subject to the terms of the lease and the rights of the lessor,

unless such assets are investments through purchases of shares in property companies or REIT securities of other I-REITS permitted under these Regulations and which are not investee companies or investee trusts.

(2) Total investments by an I-REIT in shares in property company shares or REIT securities of other I-REITS which are not investee companies or investee trusts shall not in total exceed ten percent of the total asset value where the percentage is calculated based on the value of the investment and the total net asset value as at the time of acquisition of the shares or REIT securities.

## **70. I-REIT income requirement.**

(1) An I-REIT shall in each financial year after the second anniversary of its authorisation, earn at least seventy percent of its income from rent, licence fees or access or usage rights or other income streams of a similar nature generated by eligible investments in income producing real estate.

(2) Any profits or capital gains from the sale of real estate shall be excluded in calculating income as provided under sub regulation (1).

(3) An I-REIT shall not be in breach of the income requirements under sub regulation (1) if the I-REIT has disposed of a real estate asset and is proposing to reinvest the proceeds of the sale in the acquisition of substitute real estate assets provided that the real estate disposed had been an asset of the real estate investment trust for at least three years, and the I-REIT—

- (a) reinvests the funds received from disposal of the income producing real estate assets within a period of two years from the completion of the disposition; or
- (b) makes a distribution to REIT securities holders to reduce its assets.

## **71. Real estate construction and development activities by an I-REIT.**

The trustee of an I-REIT on the recommendation of the REIT manager, subject to any limitations in its scheme documents and meeting the requirements of these Regulations including the appointment of a project manager certifier, may acquire a real estate under construction, vacant land for development or enter into construction on vacant land acquired for the purposes of development, provided—

- (a) the total acquisition value of all the land on which the construction is to be undertaken by the trust combined with the cost of the construction on that land and the acquisition of real estate under construction at any time does not exceed fifteen percent of total asset value;



- (b) the total value at acquisition, cost of vacant land held for development and construction by the I-REIT and the value of real estate which is not producing a commercial income at any time does not exceed ten percent of total asset value;
- (c) vacant land acquired for the purpose of development by the I-REIT can only be held for a maximum of three years at the conclusion of which it must be developed and producing commercial income or sold;
- (d) income from other assets are sufficient to ensure that there shall be no substantial dilution to the earnings of the fund per unit during the construction or development period;
- (e) the contract for any acquisition of property under construction is subject to the completion of the building and for an agreed fixed price;
- (f) the REIT manager is reasonably believing that the prospects for obtaining tenants for any property being constructed or developed at a commercial rent are good; and
- (g) development contracts are carried out on terms which are the best available and at arm's length transactions.

## **72. Maximum level of borrowing by an I-REIT.**

- (1) A trustee may, subject to any restriction or lesser limit in the scheme documents, enter a borrowing arrangement—
  - (a) on the initiative of the trustee where such borrowing is required to preserve the value of the assets of the trust and is in the best interests of the REIT securities holders; or
  - (b) if requested to do so by the REIT manager to give effect to the objectives of the scheme to acquire real estate assets or to undertake capital expenditure or refinance an existing borrowing.

(2) The trustee may provide security over the assets of the trust to support the monies borrowed under sub regulation (1).

(3) Notwithstanding sub regulation (1) and (2), the trustee shall ensure that any borrowing or provision of security is not prejudicial to the interests of the REIT securities holders.

(4) The total amount borrowed by the trustee on behalf of an I-REIT or by any investee company or investee trust shall not exceed, in aggregate, at the time the liability is incurred, thirty-five percent of the total asset value provided—

- (a) the limit in this regulation shall not operate to prevent the rolling over or refinancing of any debt in the case where the amount rolled over or refinanced is not more than the amount originally borrowed, and
- (b) the trustee may borrow on its own initiative or on the recommendation of the REIT manager up to a maximum of forty percent of the total asset value with the prior sanction of REIT securities holders by way of an ordinary resolution for a temporary purpose for a term not exceeding six months.

(5) Non-compliance with the borrowing limitation under this regulation shall not result in a breach of the Act and these Regulations but may result in—

- (a) the I-REIT ceasing to be classified as a real estate investment trust scheme for taxation purposes;
- (b) the REIT securities holders having a cause of action against the trustee or the REIT manager subject to the scheme documents; and
- (c) enforcement by the Authority.

### **73. Distribution requirements of an I-REIT.**

(1) The REIT manager shall only recommend and the trustee may only make distributions to REIT securities holders from realized gains, realized income or from cash held in the fund which is surplus to the investment requirements of the trust.

(2) A trustee of an I-REIT on the recommendation of the REIT manager shall, subject to a higher minimum being specified in the scheme documents and to these Regulations, distribute in each financial year, a minimum of eighty percent, of the fund from sources other than from realised capital gains on the disposal of real estate assets and the distribution shall be made within four months of the end of such year.

(3) The net income after tax under sub regulation (2) shall be calculated according to International Financial Reporting Standards and tax standards applying in Uganda based on the assumption that, for calculation purposes only, the REIT is subject to the general income tax provisions applicable generally to trusts and the REIT is entitled to similar deductions and allowances, including depreciation.

(4) The trustee shall make the distribution of income on the basis proposed by the REIT manager after the trustee has taken into consideration the—

- (a) income for the period;
- (b) total returns for the period;
- (c) liabilities and financial obligations;
- (d) cash flow available for distribution;
- (e) need to preserve and maintain the condition of the assets of the real estate investment trust and scheme and to provide for asset replacement;
- (f) stability and sustainability of distribution of income;
- (g) investment objective of the I-REIT;
- (h) stated distribution policy of the I-REIT; and
- (i) requirements of the scheme documents.

(5) The trustee may—

- (a) where the distribution is proposed other than on an annual basis based on audited financial accounts, require an audit to be undertaken for the purpose of assisting in its consideration under sub regulation (4) or (8); and
- (b) if the trustee is of the opinion that the level of distribution recommended by the REIT manager is not in the interests of REIT securities holders, call a meeting of REIT securities holders for the purposes of approving, by an ordinary resolution, a lower but not a higher distribution.

(6) The REIT manager shall, where the REIT manager does not recommend a distribution of at least the eighty percent, provide the trustee with a statement of the reasons for proposing a lower distribution and when that minimum distribution level of eighty percent is likely to be restored.

(7) Where there is a failure to make distribution as a consequence of the REIT manager not proposing or REIT securities holders not voting to receive a distribution which is below the minimum eighty percent level, the failure to make a distribution shall not result in a breach of the Act and these Regulations but may result in—

- (a) the I-REIT ceasing to be classified as a real estate investment trust scheme for taxation purposes;
- (b) the REIT securities holders having a cause of action against the trustee or the REIT manager subject to the scheme documents; and
- (c) revocation of authorisation by the Authority.

(8) The REIT manager may propose and the trustee may pay a distribution in excess of the current income where the REIT manager, after consultation with the trustee, certifies on reasonable grounds that—

- (a) immediately after making such distribution, the I-REIT shall still be able to pay, from the assets of the fund, the liabilities incurred on behalf of the trust as and when they fall due and the projected liabilities for at least the next year; and
- (b) the payment will not adversely impact on the capacity to maintain and preserve the assets.

(9) The REIT manager shall—

- (a) disclose to the trustee, the basis of calculation of the distribution of income proposed under sub regulation (8); and
- (b) report any such proposal as part of the continuing disclosure obligations.

(10) Nothing in these Regulations shall prevent distributions being proposed or made, or the trust deed providing for distributions to be made at intervals more frequently than annually.

#### **74. Distribution of realised capital gains by an I-REIT.**

(1) Subject to any provision in the scheme documents, a trustee or the REIT manager may distribute realised capital gains.

(2) Any realised capital gains may be retained and invested in income producing real estate provided that any realised capital gains which have not been invested within a period of two years from the date of realisation shall be distributed to REIT securities holders within two months of the second anniversary of the realisation.

(3) Failure to make the minimum distribution specified in sub regulation (2) shall not result in a breach of the Act or these Regulations but may result in—

- (a) the I-REIT ceasing to be classified as a real estate investment trust scheme for taxation purposes;

- (b) subject to the scheme documents, may result in the REIT securities holders having a cause of action against the trustee or the REIT manager; and
- (c) revocation of authorisation by the Authority.

**75. Minimum retained investment by the promoter and lock-in period.**

(1) A promoter of an I-REIT who sells or transfers any real estate or proposes to transfer or sell real estate to the trustee of the I-REIT within a period of one year of the establishment of the I-REIT, shall maintain an investment in the I-REIT of at least thirty percent of the net asset value as at the date of the initial offer of REIT securities in the I-REIT for the first year from the latter of the close of the offer or, if the issue is to be listed, from the date of the first listing of the REIT securities and the date of transfer of the real estate to the I-REIT.

(2) Where a D-REIT converts to an I-REIT, the restrictions in sub regulation (1) shall not apply where the requirements of regulation 84 have been or are being complied with.

(3) The REIT securities held by the promoter shall not be sold or transferred during the lock in period except if the transfer is as a consequence of the death or insolvency of the promoter.

(4) The promoter may, after the—

- (a) first year of the close or listing, reduce its holding to a minimum of ten percent; and
- (b) second anniversary of the close or listing, reduce its holdings to zero percent.

(4) The trustee shall not register any transfer from the promoter, if the transfer will result in the holding of REIT securities by the promoter in any period being below the minimum level which the promoter is required to retain in the relevant period.

(5). Where a fund fails to comply with regulation 65 (6) as a result of disposals, divestments or issuance of new units, the REIT manager shall, within a period of not more than twelve months from the date of the breach, take all necessary steps and actions to rectify the breach.

(6) Notwithstanding regulation 65(7) a five percent allowance in excess of any limit or restriction imposed under these Regulations is permitted where the limit or restriction is breached through an appreciation or depreciation of the fund's total asset value which is as a result of an appreciation or depreciation in the value of the fund's asset or as a result of a repurchase of units in the case of unlisted funds or payments made out of the fund.

(7) A REIT Manager shall not make any further investments to which the relevant limit is breached and the REIT manager shall, within a reasonable period of not more than three months from the date of the breach take all necessary steps and actions to rectify the breach.

(8) A REIT manager shall notify the Authority of any breach of investment limits provided under these Regulations and the reasons for the breach.

## PART XI—SPECIFIC REQUIREMENTS FOR D-REITS

### **76. Investments and objectives of a D-REIT.**

The investments of a D-REIT scheme shall—

- (a) comply with the provisions of the Act and these Regulations; and
- (b) be relevant, appropriate and consistent with the investment objectives of the real estate investment trust and scheme as set out in the Information Memorandum and the scheme documents.

### **77. Eligible investments for a D-REIT.**

(1) A trustee of a D-REIT may, subject to any limitations in the scheme documents, if requested by the REIT manager invest—

- (a) directly in eligible real estate, except where it is prohibited by the Act or these Regulations;
- (b) in eligible real estate assets through investment in an investee company incorporated or registered in Uganda which directly owns the eligible real estate and which is wholly beneficially owned and controlled by the trustee in its capacity as the trustee of the D-REIT where—
  - (i) the D-REIT trustee has without restriction, the absolute power at any time to decide and without penalty or the payment of compensation, to remove the directors;
  - (ii) a shareholders' agreement has been entered into between the trustee of the REIT, the company, the directors and the shareholders;
  - (iii) the REIT manager of the D-REIT is appointed as the manager of the investments of the investee company;
  - (iv) the Memorandum and Articles of Association of the investee company and the terms of the shareholders' agreement limit the objectives of the investee company and the company's and directors' powers and impose the same obligations on the company, its directors and the manager of the trust as if the investee company was a D-REIT and an authorised scheme and were subject to the same obligations and restrictions as are imposed under the Act and these Regulations;
  - (v) the valuation, reporting and audit provisions of the Act and these Regulations apply to the investee company as if the investee company was a D-REIT and an authorised scheme;
  - (vi) the investee company invests directly in the eligible real estate and is recorded on the certificate of title or register as the sole owner;



- (c) in eligible real estate assets through an investee trust in which the trustee of the D-REIT in its trustee capacity is the sole beneficiary and has absolute control of voting and right to appoint and remove the trustee of the investee trust and where—
  - (i) the investee trust is formed under the laws of Uganda as an unincorporated common law trust;
  - (ii) the D-REIT trustee is also the trustee of the investee trust;
  - (iii) the REIT manager of the D-REIT is also the manager of the investee trust;
  - (iv) the terms of the trust deed for the investee trust limit the objectives of the investee trust, the trustee's powers and impose the same obligations on the trustee and the manager of the trust as if the investee trust was a D-REIT and an authorised scheme and is subject to the same obligations and restrictions as are imposed under the Act or these Regulations;
  - (v) the valuation, reporting and audit provisions of the Act and these Regulations apply to the investee trust as if the investee trust was a D-REIT and an authorised scheme;
  - (vi) the trustee as trustee for the investee trust invests directly in the eligible real estate and is recorded on the certificate of title or register as the sole owner;
- (d) in cash, deposits, bonds or securities and money market instruments;
- (e) in a wholly beneficially owned and controlled company which conducts real estate related activities; and
- (f) in income producing assets including shares in property companies incorporated or registered in Uganda whose principal business is real estate related or REIT securities in other Ugandan real estate investment trust schemes.

(2) The requirement to be the sole trustee shall not be applicable where a secondary disposition trustee is appointed.

(3) The trustee and the REIT manager shall only invest in accordance with the Act and these Regulations.

(4) The promoter of a D-REIT and the REIT manager shall—

- (a) nominate in the Information Memorandum at least one real estate asset that is already vested or is proposed to be acquired and vested and for which all legal registration requirements will have been completed within one hundred and eighty days of the closing of the initial offer.
- (b) in order to enable the trustee and the REIT manager to meet their obligations under this regulation, in the event that the requirements of paragraph (a) have not been complied with during the intervening period from the close of the initial offer or issue referred to in paragraph (a) and until the vesting of the nominated real estate asset in the trust and the completion of all registration requirements are complete, the funds raised by the initial offer and issue of REIT securities shall only be invested in bank deposits or other liquid investments with a duration not exceeding one hundred and eighty days.
- (c) include the Information Memorandum, the initial development or construction project which the D-REIT proposes to undertake; and
- (d) include a timetable, budget and a project plan for the initial development or construction the D-REIT proposes to undertake.

(5) A D-REIT shall, within one year of the date of its authorisation invest at least thirty percent of the total asset value directly in—

- (a) development and construction projects; or

- (b) income producing real estate which the D-REIT has developed or constructed.

(6) A D-REIT shall not be in breach of sub regulation (5), if the D-REIT disposes the real estate asset and within one year of such disposition, the D-REIT—

- (a) acquires a substitute real estate asset; or
- (b) makes an additional distribution to REIT securities holders so as to reduce its assets.

(7) The trustee and the REIT manager shall, for the purposes of giving effect to the requirement for investment predominantly in development and construction projects for either sale, retention or leasing as income producing property, ensure that the real estate acquired or to be acquired as an asset of the D-REIT—

- (a) is able to be developed in the manner and for the proposed use;
- (b) is free from encumbrances at the time of acquisition except for any charges entered into by the trustee as authorised by the trust deed, the Act and these Regulations; and
- (c) has reasonable prospects when development or construction is completed for sale for a profit or for leasing as income producing real estate.

(8) The trustee and the REIT manager shall, where any real estate acquired is leasehold, ensure that—

- (a) at the time of entering into the lease, the lease has a remaining term of at least five years which term may be revised by the Authority in its discretion;
- (b) the real estate has been valued as leasehold;
- (c) the lease is registered and a certificate of title is issued; and

- (d) the planning approval for the developments on the eligible real estate is provided by the relevant authorities.

(9) The trustee and the REIT manager shall ensure that investments in cash, deposits, bonds, securities and money market instruments are spread across a number of issuers, securities and instruments so that not more than five percent of the total asset value is exposed to any one issuer or institution or to members of the same group provided that—

- (a) this restriction shall not apply to deposits, bonds or securities issued by or guaranteed by the Government of Uganda or to deposits with a financial institution licenced in Uganda; and
- (b) the requirements of this regulation are not contravened where a limit is exceeded but rectified within one month from the day on which the limit was exceeded.

(10) Subject to the terms of the trust deed and with the consent of the REIT securities holders, the REIT manager may request that the trustee of a D-REIT invests up to a maximum of ten percent of the total asset value in a wholly owned and controlled company carrying out real estate related activities which may include—

- (a) property management;
- (b) REIT management;
- (c) property maintenance or design; or
- (d) the provision of services to tenants or to the D-REIT,

but shall not include the provision of mortgages or finance except to the extent that the D-REIT is authorised by these Regulations to provide mortgages or finance.

(11) For the purposes of determining the level of the investment which can be made under this regulation, the percentage shall be calculated by reference to the amount of the proposed investment and the value of the total asset value at the date that the investment is made.

**78. Consequences of failure to invest in real estate within one hundred and eighty days.**

(1) Where an investment in real estate has not been completed in accordance with these Regulations within one hundred and eighty days—

- (a) the trustee shall within twenty-eight days of the expiry of the period for investment call a meeting of the REIT securities holders;
- (b) the purpose of that meeting in paragraph (a) shall be—
  - (i) to consider the report by the REIT manager on the reason for the delay in completion;
  - (ii) to consider the implications for the holders of investment in the D-REIT;
  - (iii) to decide by special resolution whether—
    - (A) the period for registration should be extended and the period of extension;
    - (B) all monies paid into the fund together with any interest or earnings should be refunded within fourteen days of the date of the meeting; or
    - (C) any other action should be taken by the trustee or REIT manager.

(2) The failure to complete a nominated investment in real estate shall not constitute an offence but failure to call the required meeting or to refund monies within the specified period shall constitute an offence on the part of the promoter, the trustee and the REIT manager.

**79. Acquisition and disposal of a real estate and price.**

(1) A D-REIT shall not—

- (a) acquire real estate at a price which exceeds the price in the valuation report by more than ten percent unless the acquisition is approved by REIT securities holders; or
- (b) dispose of real estate at a price lower than ninety percent of the value assessed in the valuation report unless the disposal is approved by REIT securities holders.

(2) Except where a disposal is for the purposes of terminating or winding up of a D-REIT, where the disposal of an asset will exceed fifty percent of the total asset value, the disposal shall be sanctioned by an ordinary resolution of REIT securities holders, prior to the trustee entering into a binding contract for disposal.

(3) A REIT manager shall not recommend and a trustee of a D-REIT shall not enter into a binding contract which can only be terminated on the payment of penalties in connection with a transaction to which sub regulation (1) applies, unless approval of whom has been obtained.

(4) Any contract entered into under sub regulation (3) shall be based on a valuation report.

## **80. Partial ownership of real estate.**

- (1) Interests in real estate acquired as assets of a D-REIT shall—
  - (a) not constitute partial ownership of real estate assets;
  - (b) in the case of a real estate which is on freehold land, from the time of acquisition, the real estate shall be wholly owned and controlled by the trustee who shall exercise all rights, interests and benefits normally enjoyed by an owner without hindrance; and
  - (c) in the case of a real estate which is on leasehold land, from the time of the commencement of the lease entered into by the trustee on behalf of the scheme, the trustee shall have sole rights, interests or benefits normally enjoyed by a lessee subject to the terms of the lease and the rights of the lessor,

unless such assets are investments through purchases of shares in property companies or REIT securities permitted under these Regulations and which are not investee companies or investee trusts.

(2) The limitation on partial ownership of real estate shall not apply to a D-REIT in the case of real estate which the D-REIT—

- (a) has developed and constructed and sold part of the interest in the completed project to another person; or
- (b) has partial ownership—
  - (i) as a consequence of the D-REIT entering into a terms or instalment sale or other transaction of a similar nature, or
  - (ii) where in connection with an acquisition or sale, subdivision of the real estate is in progress.

(3) Total investments by a D-REIT in property company shares or REIT securities which are not in investee companies or investee trusts shall not, in total, exceed ten percent of the total asset value where the percentage is calculated based on the value of the investment and the total net asset value at the time of acquisition of the shares or REIT securities.

## **81. Construction and development activities by a D-REIT.**

(1) A trustee of a D-REIT may, subject to any limitations in the scheme documents, and on the recommendation of the REIT manager acquire—

- (a) vacant land for development;
- (b) real estate under construction; or
- (c) land for redevelopment.

(2) A trustee of a D-REIT may also subject to any limitations in the scheme documents, and on the recommendation of the REIT manager enter into contracts for or conduct development and construction.

## **82. Maximum levels of borrowings by a D-REIT.**

(1) A trustee of a D-REIT may, subject to any restriction or lesser limit in the scheme documentation, borrow or enter into financing arrangements—

- (a) on its own initiative where such borrowing is required to preserve the value of the assets of the trust and is in the best interests of the REIT securities holders; or
- (b) if requested to do so by the REIT manager so as to give effect to the objectives of the scheme to acquire real estate assets, to undertake development and construction, to undertake capital expenditure or to refinance any existing borrowing.

(2) The trustee may provide security over the assets of the real estate investment trust and scheme to support borrowings under sub regulation (1).

(3) Borrowings entered into by the trustee on behalf of a D-REIT or by any investee company or investee trust shall not exceed, in aggregate, at the time the liability is incurred, sixty percent of the total asset value provided that—

- (a) the limit shall not operate to prevent the rolling over or refinancing any debt provided that the amount rolled over or refinanced is not more than the amount originally borrowed; and
- (b) the trustee cannot borrow or enter a financing agreement exceeding fifty percent of the total asset value, without the prior sanction of REIT securities holders by way of an ordinary resolution for a temporary purpose for a term not exceeding six months.

(4) Any non-compliance with the borrowing limitation under this regulation shall not result in a breach of the Act or these Regulations but—

- (a) may result in the D-REIT ceasing to be classified as a real estate investment trust scheme for taxation purposes;



- (b) subject to the scheme documents, may result in the REIT securities holders having a cause of action against the trustee or the REIT manager; or
- (c) revocation of the authorisation by the Authority.

### **83. Distribution requirements of a D- REIT.**

(1) Distributions shall be recommended by the REIT manager and made by the trustee as provided for in the scheme documents.

(2) The trustee shall make the distribution of income on the basis as provided for in the scheme documents and proposed by the REIT manager after the trustee has taken into consideration the—

- (a) income for the period;
- (b) total returns for the period;
- (c) liabilities and financial obligations;
- (d) cash flow available for distribution;
- (e) need to preserve and maintain the condition of the assets of the fund and to provide for asset replacement;
- (f) stability and sustainability of distribution of income;
- (g) investment objective of the D-REIT;
- (h) stated distribution policy of the D-REIT, and
- (i) requirements of the scheme documents.

(3) The trustee may—

- (a) where the distribution is proposed other than on an annual basis based on audited financial accounts require an audit to be undertaken for the purpose of assisting in its consideration under this subregulation or regulation (4); and

- (b) if the trustee believes that the level of distribution recommended by the REIT manager is not in the interests of REIT securities holders call a meeting of REIT securities holders to approve, by ordinary resolution, a lower but not a higher distribution.

(4) A REIT manager may propose and the trustee may pay distributions in excess of the current income where the REIT manager, after consultation with the trustee, certifies on reasonable grounds that-

- (a) immediately after the making of such distribution the D-REIT shall still be able to pay from the assets of the fund, the liabilities incurred on behalf of the trust as and when they fall due and the projected liabilities for at least the next year; and
- (b) the payment shall not adversely impact on the capacity to maintain and preserve the assets of the REIT.

(5) The REIT manager shall, where the REIT manager proposes payment of distributions in excess of the current income—

- (a) disclose to the trustee the basis of calculation of the distribution proposed under sub regulation (4); and
- (b) report any such proposal as part of the continuing disclosure obligations.

#### **84. Distribution of realised capital gains by a D- REIT.**

(1) Subject to the scheme documents, the REIT manager may, recommend to the trustee to distribute any realised capital gains.

(2) Any capital gains may be retained and invested in new acquisitions or development and construction or buy to rent housing income producing real estate provided any realised capital gains which have not been invested within a period of two years from the date of realisation shall be distributed to REIT securities holders within two months of the second year after authorisation.

(3) Failure to make the required distribution under sub regulation (2) may result in—

- (a) the D-REIT ceasing to be classified as a real estate investment trust scheme for taxation purposes;
- (b) subject to the scheme documents, the REIT securities holders having a cause of action against the trustee or the REIT manager; or
- (c) revocation of the authorisation by the Authority.

## **85. Minimum retained investment by the promoter and lock-in period.**

(1) A promoter who sells or transfers any real estate or proposes to transfer or sell any real estate to the trustee of the D-REIT within a period of one year of the establishment of the D-REIT shall, subject to any requirements in the scheme documents requiring a higher level of investment, maintain an investment, of at least ten percent of the net asset value for two years from the close of initial the offer or if the issue is to be listed from the date of first listing of the REIT securities.

(2) The REIT securities held by the promoter shall not be sold or transferred during the lock in period except if the transfer is as a consequence of the death or insolvency of the promoter.

(3) A promoter may, after the second anniversary of the close of the initial offer or issue, reduce its holding to zero percent.

(4) The trustee shall not register any transfer from the promoter if the transfer results in the promoter holding REIT securities which are below the minimum level the promoter is required to retain at any time.

## **PART XII—CONVERSIONS OF REITS**

### **86. Requirements for conversion from a D-REIT to an I-REIT.**

(1) A REIT manager of a D-REIT may apply to the Authority to convert to an I-REIT where—

- (a) the conversion has been approved by the trustee and by a special resolution passed at a meeting of REIT securities holders held not more than six months prior to the proposed conversion date;
- (b) the scheme documents are amended to comply with the requirements of an I-REIT;
- (c) a conversion Prospectus or Information Memorandum, which meets the requirements for an I-REIT, is filed with and approved by the Authority and distributed to existing REIT securities holders prior to the holding of the meeting of REIT securities holders to consider the resolution to approve the conversion;
- (d) the D-REIT demonstrates to the Authority that it shall, upon conversion, be able to meet the eligible asset requirements for an I-REIT; and
- (e) the D-REIT is able to establish that at least fifty percent of the total value of the real estate assets of the fund—
  - (i) are subject of long-term leases; or
  - (ii) where the nature of the real estate asset is such that long term leases are not the norm, the real estate assets have been income producing for at least six months.

(2) Regulation 18 shall apply to the application for conversion as if the application was for an authorisation as an I-REIT.

## PART XIII—ADVERTISING

### **87. Advertising.**

(1) The REIT manager shall not issue or cause to be issued any advertisement for or in connection with the scheme unless the contents of the advertisement have been approved by the trustee and the Authority.

(2) For the purposes of sub regulation (1), “advertisement” does not include any publication of the issue, sale, repurchase or redemption prices of REIT securities.

(3) Any advertisement in respect of a real estate investment trust scheme shall set out a summary of the rights of the REIT securities holder as provided for in the scheme documents including a warning statement that—

- (a) the price and value of REIT securities and the income from REIT securities, may fluctuate;
- (b) the REIT securities holder in a restricted offer REIT may have limited, or no rights to redemption and in certain circumstances the right of a REIT securities holder to redeem the REIT securities may be suspended; and
- (c) if the REIT securities are those of an unrestricted offer I-REIT a statement that the holder is not entitled to require the trustee to compulsorily redeem their REIT securities and their exit would in ordinary circumstances be through sale on an exchange at a price determined by the market which may not reflect the net asset value per unit.

(4) A warning statement under sub regulation (3) shall be printed in the same font size as the rest of the text in the advertisement.

## **88. Inclusion of performance data.**

(1) The Authority may require a justification of the calculation, if performance data or estimated yield is quoted in—

- (a) any report;
- (b) an advertisement; or
- (c) any other invitation to the public to invest in a real estate investment trust scheme.

(2) A forecast of the performance of the real estate investment trust scheme shall not be included in any advertisement or in any Prospectus or Information Memorandum.

(3) For the purposes of this Regulation, a publication of a prospective yield does not constitute a forecast of performance.

#### PART XIV—ALTERATION OF SCHEME DOCUMENTS

### **89. Alterations to REITs documentation.**

(1) Subject to sub regulation (2), a person shall not alter the scheme documents of a scheme except—

- (a) by a special resolution of REIT securities holders; and
- (b) subject to the prior approval of the Authority.

(2) The REIT manager and the trustee may alter the scheme documents without consulting the REIT securities holders provided the trustee certifies, in writing, in respect of each proposed alteration that in the opinion of the trustee, the proposed alteration—

- (a) is necessary to enable compliance with fiscal or other statutory or official requirements; or
- (b) does not materially prejudice the interests of the REIT securities holders;
- (c) does not, to any material extent, release the trustee, REIT manager or any other person from any liability to REIT securities holders;
- (d) does not increase the costs and charges payable from the assets of the real estate investment trust; or
- (e) is necessary to correct a manifest error.

PART XV—FEES AND TERMS OF THE TRUSTEE, THE REIT MANAGER AND  
OTHER PARTIES

**90. Remuneration of the trustee.**

(1) A trustee shall be remunerated by an annual fee charged to the fund which may be paid in instalments during the course of the year.

(2) The trustee shall be entitled to first priority for the payment of the fees and expenses out of the fund.

(3) The scheme documents shall provide for the payment of fees as long as such provisions are not in conflict with the Act or these Regulations.

**91. Remuneration of a REIT manager.**

A REIT manager may be remunerated—

- (a) by way of an annual fee charged to the fund;
- (b) through an issue of REIT securities in the REIT;
- (c) by way of a profit share from—
  - (i) the sale of the real estate in the case of a D-REIT;
  - (ii) increase in net earnings of the REIT or achievement of earnings above a minimum specified hurdle rate;
  - (iii) the realisation of value on the conversion to an I-REIT or listing; or
- (iv) by a combination of paragraphs (i) –(iii).

**92. Deferment of fees payable to a REIT manager.**

A REIT manager may, at its option, agree to defer some or all the fees payable to it, provided—

- (a) the fees are deferred at the rate otherwise payable;

- (b) no interest is payable in respect of any deferred payment and the impact or potential impact of such deferral on returns, distributions and performance of the scheme shall be clearly disclosed in any Prospectus or Information Memorandum and in the reports prepared under regulation 101; and
- (c) in the case of an unrestricted offer I-REIT, the deferral is not for more than three years.

**93. Basis for remuneration of trustee and REIT manager.**

(1) A basis of calculation of fees and the fees applicable from time to time shall be specified in—

- (a) the scheme documents; and
- (b) the reports prepared from time to time.

(2) The fees payable to the REIT manager and the trustee shall, notwithstanding the provisions in the scheme documents, be fair and reasonable based on the—

- (a) roles, duties and responsibilities of the REIT manager or the trustee;
- (b) interests of the REIT securities holders;
- (c) nature of the real estate investment trust;
- (d) extent of the services provided;
- (e) size and composition of the assets of the fund;
- (f) success, in the case of a REIT manager, in meeting the investment objectives; and
- (g) need to protect, in the case of a trustee, the interests of REIT securities holders.



(3) Where the trustee is of the opinion that any proposed material increase in fees or change in the method of calculation of the fees charged by the REIT manager is not fair and reasonable the trustee shall convene a meeting of the REIT securities holders.

(4) The trustee shall, at a meeting convened under sub regulation (3), require the REIT manager to justify any increase in fee charged by the REIT manager or the basis of calculation.

(5) The REIT manager shall not, where the trustee calls a meeting under sub regulation (3), effect an increase or change the basis of calculation unless agreed to by an ordinary resolution of the REIT securities holders.

(6) The approved fee shall be disclosed in a supplemental Prospectus and approved by the Authority.

(7) Notwithstanding any provision in the scheme documents, a REIT manager that is removed or dismissed for any reasonably cause shall not be entitled to—

- (a) any additional fee other than that payable on an annual or accrued basis up until the time of the removal or dismissal; or
- (b) claim any penalty in respect of the dismissal, removal or ceasing to act.

#### **94. Term of the REIT manager of an I-REIT and prohibition on penalties.**

(1) A person appointed as a REIT manager of an I-REIT may serve for a maximum term of three years but is eligible for reappointment for subsequent terms each, not exceeding three years.

(2) Any appointment or reappointment under sub regulation (1) shall be subject to approval by an ordinary resolution of REIT securities holders.

(3) The REIT manager shall not be paid additional fees or penalty as a consequence of the REIT manager not being reappointed.

(4) For the purposes of sub regulation (3), any fee which is payable—

- (a) only on the cessation of a person being the REIT manager; or
- (b) at a higher rate than otherwise payable including where it has been deferred and whether payable in cash, by way of a profit share or other means, shall be taken to be a penalty and shall be void.

## **95. Recoverable expenses.**

(1) Any entitlement to deduct fees by the trustee or the REIT manager together with—

- (a) a reasonable estimate of the recoverable expenses to be incurred; and
- (b) details of the estimated MER,

for the first two years following authorisation of the real estate investment trust scheme from the date of the Prospectus or Information Memorandum, shall be set out in the Prospectus or Information Memorandum.

(2) The REIT manager shall, subject to the scheme documents, be entitled in addition to any fee payable to recover and pay out of or charge to the fund, expenses or an appropriate apportionment thereof, directly related and necessary in operating and administering the real estate investment trust which may include—

- (a) the costs and expenses of or associated with the—
  - (i) undertaking of any capital works or authorised development or construction including the appointment of professional advisers; or

- (ii) the letting, maintenance, refurbishment of, development, acquisition, investment, incurring income from or disposal of assets;
- (b) costs and expenses of or associated with—
  - (i) services provided in relation to the assets of the fund, including electricity, water, cleaning, security or services of a similar nature;
  - (ii) incurred for the modification of the scheme documents other than for the benefit of the REIT manager or the trustee;
  - (iii) incurred for any meeting of REIT securities holders other than those convened for the benefit of the REIT manager or the trustee;
  - (iv) insurance and maintenance of the real estate and other assets belonging to the fund;
  - (v) related to or connected with the leasing and tenanting of properties or otherwise earning income from the assets;
- (c) general taxes and other duties, levies or charges on the fund but not taxes levied on the trustee or REIT manager in their personal capacities;
- (d) fees and other expenses properly incurred—
  - (i) by the auditor appointed for the fund;
  - (ii) by any project manager certifier appointed for the real estate investment trust or in respect of a particular project;
  - (iii) by any structural engineer appointed for the real estate investment trust or in respect of a particular project;

- (iv) for the valuation of any investment or proposed investment or asset of the fund by independent valuer for the benefit of the fund;
- (v) in defending claims against the fund; or
- (vi) in respect of any asset or investment or proposed investment of the fund;
- (e) initial and ongoing listing expenses; and
- (f) legal, accounting and normal underwriting fees and expenses incurred in—
  - (i) arranging borrowing or other financing arrangements by the trustee on behalf of the real estate investment trust; or
  - (ii) the issuing of additional REIT securities but not the costs or expenses ordinarily associated with the redemption of REIT securities or the issue of new or replacement REIT securities in the fund.

(3) The overheads and costs of services expected to be provided by a REIT manager in its capacity as REIT manager shall not be charged to the fund.

(4) The trustee and the auditor shall review all expenses charged to the fund and only allow such expenses which they reasonably determine are legitimate and in accordance with standard arm's length commercial rates generally prevailing in Uganda.

(5) The trustee in addition to payment of its fee shall be entitled to reimbursement by the fund, for any costs and expenses reasonably incurred in the performance of its duties and responsibilities as a trustee including the defending of the assets of the fund and the interests of the REIT securities holders.

## PART XVI—MAINTENANCE OF BOOKS, ACCOUNTS AND RECORDS

### **96. Maintenance of books, accounts and records.**

(1) A trustee and REIT manager shall cause to be kept books, records and accounts in respect of the fund, the scheme and the REIT in accordance with the law and International Financial Reporting Standards (IFRS).

(2) The books, records and accounts kept under sub regulation (1) shall—

- (a) adequately account for the assets and liabilities of the real estate investment trust or incurred by the trustee or the REIT manager in relation to or in connection with real estate investment trust and the scheme; and
- (b) sufficiently explain all contracts and transactions entered into by the trustee or the REIT manager in relation to or in connection with the real estate investment trust and the scheme.

## PART XVII—APPOINTMENT AND REMOVAL OF AN AUDITOR AND AUDIT OF ACCOUNTS

### **97. Appointment of an auditor and audit of accounts.**

(1) A trustee shall appoint an independent auditor to audit, at least annually, the accounts and financial statements of the real estate investment trust and the scheme.

(2) The auditor shall report whether the trustee and the REIT manager have complied with these Regulations throughout the year.

(3) The Authority may appoint an auditor to undertake the audit required under the Act and these Regulations where—

- (a) the Authority is of the opinion that the auditor appointed under sub regulation (1) is not suitable; or
- (b) the trustee has failed to appoint an auditor.

(4) The Authority may, if it is of the opinion that a special audit is necessary in the interests of the holders of REIT securities, appoint an auditor to conduct such an audit.

(5) An auditor appointed under sub regulation (1) and (3), shall be remunerated out of the assets of the real estate investment trust.

**98. Removal of an auditor.**

(1) An auditor appointed under Regulation 97 may be removed by the trustee on—

- (a) its own instance; or
- (b) the request by way of ordinary resolution passed at a meeting of REIT securities holders.

(2) Where an auditor has been removed under in sub regulation (1), the trustee shall appoint another auditor in its place.

**99. Notification to the Authority.**

A trustee shall—

- (a) notify the Authority and the REIT manager within seven days of the removal or appointment of an auditor; and
- (b) provide such information as the Authority may require, as to the circumstances of any removal or replacement.

**100. Co-operation with the auditor.**

A trustee, REIT manager, valuer, property manager, property manager certifier, structural engineer, legal or other adviser or party appointed in relation to the real estate investment trust scheme or by the REIT manager or in respect of a transaction entered into or proposed to be entered into, shall—

- (a) provide such assistance as the auditor reasonably requires to discharge its duties;

- (b) allow the auditor, at all reasonable times, access to premises, documents, records, data and information including, access to software and systems;
- (c) not interfere with the ability of the auditor to discharge its duties;
- (d) not provide false or misleading information to the auditor;
- (e) report to the auditor any matter which may significantly affect the financial position of the real estate investment trust, scheme or the fund or the conduct of the audit;
- (f) waive and not claim any right to confidentiality or to privilege, including legal professional privilege, in respect of any information, advice, documents or data provided to or prepared for or on behalf of the trustee or the REIT manager which has been paid for out of the assets of the fund or was obtained for the purposes of inclusion in any Prospectus or Information Memorandum; and
- (g) take all reasonable steps to ensure that any employee or person appointed by it complies with the same requirements.

PART XVIII—PREPARATION OF PERIODIC REPORTS AND ACCOUNTS BY  
THE REIT MANAGER AND TRUSTEE

**101. Preparation of semi-annual and annual reports.**

(1) A REIT manager shall prepare or cause to be prepared on behalf of and present to the trustee for the trustee's consideration, semi-annual and annual reports for the scheme which includes the accounts for the real estate investment trust for the periods.

(2) The reports prepared under sub regulation (1) shall—

- (a) be submitted to the trustee for approval;

- (b) provide all the information necessary to allow the holders of REIT securities and potential investors to evaluate the performance of the real estate investment trust scheme; and
- (c) be prepared in accordance with IFRS, the Act and these Regulations.

(3) The reports prepared under sub regulation (1) shall contain the information required to be provided as set out in Form 4, Schedule 3 and as the Authority may require and shall include—

- (a) in the case of—
  - (i) the annual report, audited financial statements certified by both the trustee and the REIT manager to be true and correct; and
  - (ii) semi-annual report, financial statements which need not be audited but are to be certified by both the trustee and the REIT manager to be true and correct;
- (b) the auditor's report for annual statements which shall include a compliance report.

(4) Any certifications by the trustee and REIT manager shall be signed by the compliance officer of the trustee and in the case of the REIT manager, by the chief executive officer and at least one non-executive director.

## **102. Failure to prepare reports.**

(1) Where the REIT manager fails to cause the preparation of accounts and reports as required under the Act or these Regulations, the trustee shall, without relieving the REIT manager of any obligation—

- (a) advise the Authority of the failure of the REIT manager; and
- (b) cause the accounts and reports, other than the REIT manager's report, to be prepared as expeditiously as possible at the expense of the REIT manager.



(2) The REIT manager, any property manager and other person appointed by the REIT manager or the trustee in connection with the real estate investment trust scheme or any person whose fees or costs have been paid out of the fund or are recoverable from the fund, shall provide the trustee and any person appointed by the trustee to prepare the reports and accounts with all such information, assistance and access to information and data as the trustee or the person appointed by the trustee may require.

### **103. Submission of reports to the Authority and REIT securities holders.**

(1) The REIT manager, in consultation with the trustee, shall-

- (a) file with the Authority, a copy of the—
  - (i) first half financial year reports and accounts within thirty days of the end of the half year;
  - (ii) annual report and the audited accounts within three months of the end of the financial year;
- (b) provide such other information, statements, books, records or other particulars as may be required by the Authority, and
- (c) in the case of an unrestricted I-REIT publish in at least two daily newspapers of national circulation the—
  - (i) first half financial year and accounts within thirty days of the end of the first half of the financial year;
  - (ii) annual report and audited accounts within three months of the end of the financial year.

(2) The REIT manager shall send to every REIT securities holder, without a charge, a copy of—

- (a) the first half financial year reports and accounts within thirty days of the end of the half year; and

- (b) the annual report and the audited accounts within three months of the end of the financial year.

#### **104. Distribution recommendations and statements.**

A REIT manager shall, whenever a distribution, including any interim distribution is made, circulate to the Authority and to the REIT securities holders a notice of distribution and a statement authorised by the trustee which statement shall include details of—

- (a) the source and nature of the distribution;
- (b) the total returns of the real estate investment trust and scheme from income or capital gains;
- (c) in the case of an I-REIT the percentage income distributed as calculated in accordance with regulation 73 and if less than eighty percent the reasons why the proposed distribution is less than eighty percent; and
- (d) the net asset value per unit prior to and subsequent to, the making of the distribution.

### **PART XIX—NOTIFICATIONS AND REPORTING TO THE AUTHORITY**

#### **105. Notification and compliance report by the trustee.**

A trustee shall, in addition to any other requirement for notification under the Act or these Regulations, notify the Authority, within seven days of—

- (a) its becoming aware of any failure, act or omission by the trustee, REIT manager, property manager including any person appointed by the REIT manager; the valuer or project manager certifier which constitutes or may constitute a breach or contravention of any provisions of the Act, these Regulations or the scheme documents and any steps taken by the trustee or any other party to ensure that the breach or contravention is rectified as soon as possible;

- (b) appointment, removal or retirement of—
  - (i) the REIT manager;
  - (ii) the auditor;
  - (iii) valuer; or
  - (iv) project manager certifier;
- (c) amendments to the trust deed;
- (d) appointment or changes to the compliance officer of the trustee;
- (e) amendments to any REIT manager agreement or other scheme document;
- (f) acquisition or disposal of any real estate assets;
- (g) any resolution passed to wind up the real estate investment trust;
- (h) any resolution proposed to remove the trustee or the REIT manager; and
- (i) the completion of the termination or winding up of the real estate investment trust.

**106. Notification and compliance report by the REIT manager.**

The REIT manager shall, in addition to any other requirement for notification under the Act or these Regulations, notify the trustee and the Authority, within seven days of—

- (a) appointment or changes to the compliance officer of the REIT manager;
- (b) appointment, removal or retirement of—
  - (i) the chief executive officer of the REIT manager;
  - (ii) a director of the REIT manager; and

- (c) becoming aware of any failure, act or omission of the trustee, REIT manager including any person appointed by the REIT manager, any property manager, valuer, project manager certifier which constitutes or may constitute a breach or contravention of any provisions of the Act, these Regulations or the scheme documents and the steps taken by the REIT manager or any other party to ensure that the breach or contravention is rectified as soon as possible.

### **107. Notification and compliance report by the auditor.**

An auditor shall, in addition to any other requirement for notification under the Act or these Regulations, notify the trustee and the Authority within seven days of becoming aware of any failure, act or omission of the trustee, REIT manager, including any person appointed by the REIT manager, any property manager, valuer, project manager certifier which constitutes or may constitute a breach or contravention of any provisions of the Act, these Regulations or the scheme documents and the steps taken by the auditor or which the auditor has recommended be taken to ensure that the breach or contravention is rectified as soon as possible.

### **108. Availability of reports.**

The Authority shall make available, for public inspection as soon as possible after filing, all the reports, notifications and continuing disclosure documents filed with the Authority which relate to a real estate investment trust or scheme.

## **PART XX—ACQUISITION AND DISPOSAL OF ASSETS**

### **109. Acquisition from promoter and connected parties.**

A trustee may, subject to compliance with the Act and these Regulations and any listing requirements, if authorised by the scheme documents and approved by the Authority, acquire or dispose of real estate and related assets of the real estate investment trust from or to—

- (a) the promoter of the scheme; or
- (b) other connected persons or connected parties.

## **110. Additional acquisitions.**

(1) Following the initial issue or offer of REIT securities to persons other than the promoter or persons connected with the promoter, where there is an intention to acquire or dispose of any real estate assets, then prior to entering into any binding contract or any agreement that can only be terminated on the payment of consideration or of a penalty, the REIT manager shall obtain and provide to the trustee—

- (a) a report from a structural engineer on the condition of the real estate assets, which report shall be made available to each valuer prior to the conduct of any valuation;
- (b) a valuation report;
- (c) where the total consideration for the proposed acquisition from or disposal to a person who is not the promoter or connected person represents more than fifteen percent of the latest published net asset value, the approval by way of an ordinary resolution, passed in a general meeting, of the holders of REIT securities, or
- (d) where the total consideration for proposed acquisition from or disposal transaction to the promoter or a connected person represents more than five percent of the latest published net asset value of the trust, obtain the approval by way of an ordinary resolution, passed in a general meeting, of the holders of the REIT securities.

(2) Where, as part of the initial offer of REIT securities it is proposed to acquire or dispose of any real estate assets prior to entering into any binding contract or any agreement that can only be terminated on the payment of consideration or of a penalty, the REIT manager shall comply with the requirements of sub regulation 1(a) and (b) but shall not be required to comply with sub regulation 1(c) or (d).

**111. Appointment of a valuer.**

- (1) A trustee in consultation with the REIT manager shall—
  - (a) prior to an application being made to the Authority for authorisation of a scheme, appoint a valuer to value the real estate assets which have been vested in the trust or acquired or are proposed to be acquired by trustee;
  - (b) ensure that where necessary, an additional alternative or substitute valuer is appointed on a timely basis in the event of—
    - (i) the retirement, removal or the valuer ceasing to act;
    - (ii) the valuer not being qualified to act; or
    - (iii) an additional valuation report being required;
  - (c) where the real estate investment trust has assets which are not real estate assets and which are not in the form of cash, bank deposits or listed securities, appoint a suitably qualified independent professional valuer, to undertake the valuation of those assets.

(2) The valuer shall be appointed for a term of not more than three years and shall not, except with the prior approval of the Authority, be reappointed as valuer of that scheme at the conclusion of the term from the date of expiry of any prior term.

(3) The trustee, in consultation with the REIT manager shall, where for any reason or in respect of any acquisition, disposal or specific transaction, the valuer ceases to be independent or the trustee is of the opinion that given the nature of the asset the valuer does not have the required skills, appoint another valuer for the specific purpose of conducting the required valuation.

(4) A person shall only be eligible to be appointed as a valuer of a real estate asset if that person—

- (a) is registered, licenced or recognised by the Institution of Surveyors of Uganda or similar body established under the Laws of Uganda as a valuer;
- (b) is independent as provided for under sub regulation (8) and does not have a conflict of interest;
- (c) provides real estate and other property valuation services on a regular basis;
- (d) carries on business of valuation of real estate in Uganda;
- (e) has been a member of the relevant Authority or organisation in good standing for a minimum of five years; and
- (f) has in place and maintains professional liability insurance to cover its obligations.

(5) In the case of a specialist valuer appointed in respect of assets other than real estate, only sub regulations (4)(a) and (f) shall apply.

(6) All valuations prepared by a valuer shall be addressed to the trustee and expressed to be for the benefit of the trustee as trustee of the REIT and the REIT securities holders as beneficiaries of the REIT.

(7) Where the REIT manager is a manager of more than one scheme, the same valuer may not be appointed for more than one scheme.

(8) A valuer shall not be considered to be independent if—

- (a) that valuer falls within the definition of a connected person;
- (b) the valuer or its partners, directors, officers or key personnel hold REIT securities in the scheme;
- (c) the valuer has any financial, professional or other interest that can affect the ability of the valuer to render unbiased professional services to the trustee in relation to the scheme or its assets including any assets that it consider acquiring; or

- (d) in the case of a valuation that is conducted in connection with the disposition or acquisition or proposed disposition or acquisition of an asset, the valuer has within the two years immediately prior to the date of the valuation undertaken or been retained to provide a valuation for the counterparty or proposed counterparty to the disposal or acquisition.

(9) A valuer shall—

- (a) include in any valuation undertaken, a declaration as to its independence and evidence of the currency of its professional liability insurance; and
- (b) on request provide the trustee with a declaration and evidence of currency of insurance for inclusion in any periodic report the trustee is required to prepare.

(10) A valuer shall inform the trustee immediately if it becomes aware of any potential conflict or event that would cause it to cease its independence generally or where it would not satisfy the requirements of this regulation generally or in respect of a particular or proposed valuation, disposition or acquisition.

(11) Where a valuer appointed under this regulation—

- (a) generally ceases to be independent or qualified for appointment, the valuer shall retire and the trustee in consultation with the REIT manager shall, within a period of thirty days, appoint a new valuer; or
- (b) would not be independent in respect of a particular or proposed disposition or acquisition or notifies the trustee that it does not satisfy the requirements of this regulation, the trustee in consultation with the REIT manager, shall appoint an alternative valuer to act in respect of that particular transaction and any subsequent valuations required of that particular asset.



## **112. Obligations of a valuer.**

A valuer shall—

- (a) not hold REIT securities in an investment scheme for which it has been appointed as a valuer;
- (b) comply with the Act and these Regulations;
- (c) immediately advise the trustee and the REIT manager if it ceases to be independent or to be qualified for appointment or to conduct a specific valuation or has a conflict;
- (d) ensure that its opinion and valuation are objective and independent of its business or commercial relationships; and
- (e) immediately inform the trustee and the REIT manager of any circumstance or factors which come to the knowledge of the valuer which may reasonably affect the accuracy of the last valuation report prepared in respect of any asset.

## **113. Basis for valuation and conduct of valuation.**

(1) The trustee shall cause a valuation of the real estate assets of the trust to be conducted and ensure that other assets of the trust are appropriately valued—

- (a) prior to acquisition or disposal of any asset;
- (b) prior to the issue or offer of any REIT securities except where the issue or offer is made to the promoter or to connected persons;
- (c) on an annual basis or shorter period as is necessary to enable the trustee and or the REIT manager to prepare the reports required to be prepared under the Act or these Regulations or to fulfil its obligations as trustee;
- (d) if the auditor or REIT securities holders request; and

- (e) at any other time, if the trustee or the REIT manager or the auditor is of the opinion that it is desirable in the interests of the REIT securities holders that a valuation be conducted or that there has been a material change that may result in the then current valuation being incorrect.

(2) A valuer shall conduct a full valuation of all the real estate assets—

- (a) based on a full physical inspection of all sites and inspection of all buildings and any facilities erected thereon, associated plant and equipment at least once every three years; and
- (b) based, in each other year, on a desk top review unless the valuer is of the opinion that a full physical inspection is necessary or is requested by the trustee to conduct a full physical inspection.

(3) The trustee and the REIT manager shall, where the assets of the scheme involve—

- (a) land or real estate under development or construction; or
- (b) a contract to acquire assets under construction,

ensure that a project manager certifier prepares an assessment report and any structural engineer's report that has been obtained or is required to be obtained has been made available to the valuer prior to the completion of the valuation.

(4) An assessment report made under sub regulation (3) by the project manager certifier shall include—

- (a) the estimate of the cost to complete the development or construction;
- (b) the costs incurred to date in the development or construction;

- (c) the progress against the original and any revised schedule, contract or project plan; and
- (d) a comparison of costs incurred against the original and any amended budgets.

(5) A valuer is not required to accept the contents of the assessment or report prepared under sub regulation (3) in its valuation, but shall disclose the details of the assessment or report and include comments on the impact, if any, of the assessment or report on the valuation.

(6) Unless a specialist valuer is appointed, a REIT manager shall value cash, bank deposits, bonds, other assets of a similar type and listed securities on a daily basis and report to the trustee at the conclusion of each working day and provide the trustee with details of such valuations so as to enable the trustee to fulfil its obligations under the Act and these Regulations.

(7) Where—

- (a) the trustee, at the request of the REIT manager, proposes to issue new REIT securities for subscription; or
- (b) redemption is required or permitted and the trustee proposes to redeem REIT securities,

and the assets were valued more than six months prior to the proposed issue or redemption, a minimum desk top valuation, not involving a full physical inspection, shall be conducted by the valuer prior to the issue or redemption provided the REIT manager and the valuer certifies to the trustee that they are not aware of any fact or condition that would have resulted in values of the real estate assets to have changed materially.

(8) Valuations shall be conducted on the basis and in accordance with the procedures and methodologies as set out in Schedule 4 as well as the valuation standards published and adopted by the body responsible for the registration of surveyors.

#### **114. Fees and remuneration of a valuer.**

(1) Subject to sub regulation (3) and to compliance with any law relating to valuation fees, a valuer shall be paid a pre-determined annual fee.

(2) Except where required by law, the fees payable under sub regulation (1) shall not be contingent upon the valuation of the assets as determined by the valuer.

(3) Where as a consequence of the operation of these Regulations, an additional or alternative valuer is appointed to undertake a specific valuation, except where a law requires a fixed fee for conducting the required valuation, it shall be agreed prior to appointment of the valuer that such fee shall not be contingent upon the valuation of the assets as determined by the valuer.

(4) Neither the trustee nor the REIT manager shall be entitled to charge a separate or additional fee in respect of a valuation.

#### **115. Removal of a valuer**

The trustee shall remove a valuer where—

- (a) the valuer ceases to be qualified under regulation 111 other than where a valuer has a conflict or is otherwise not qualified only in respect of a particular acquisition or disposition and an alternative valuer has been appointed for the purpose of undertaking such valuation;
- (b) the valuer goes into liquidation, becomes bankrupt or if a receiver or administrator is appointed over the assets of the valuer;
- (c) the trustee, on its own initiative or following a request from the REIT manager, is of the opinion that it is desirable in the interests of the REIT securities holders;
- (d) the valuer has contravened any provisions of the scheme documents, the Act or these Regulation;

- (e) the REIT securities holders at a meeting—
    - (i) of which the Authority has been provided with not less than seven days prior notice;
    - (ii) where the valuer has been given the opportunity to be present at the meeting and make oral or written submissions; and
    - (iii) after hearing the recommendations of the trustee and the REIT manager,
- pass an ordinary resolution requiring the removal of the valuer.

#### **116. Retirement of a valuer.**

- (1) A valuer shall retire—
  - (a) if it ceases to be qualified except where there is a conflict or it is not qualified in respect of a particular acquisition or disposition and an alternative valuer has been appointed for the purpose of undertaking such valuation; or
  - (b) as provided for in the scheme documents.

(2) The valuer shall, upon retirement before the end of a three-year term, provide the Authority with the reasons for its retirement.

#### **117. Power of the Authority to require a valuation.**

(1) The Authority may, if it considers necessary, appoint a valuer to carry out a valuation of any assets of a scheme.

(2) A valuation carried out under sub regulation (1) shall be final and binding.

(3) The trustee, REIT manager, property manager, property certifier, valuer including any former valuer or other party appointed in connection with the scheme, shall provide such documents, information and assistance to the Authority and any valuer appointed by the Authority to enable that valuer undertake its role in a professional manner.

(4) Fees, expenses or costs incurred by the Authority in appointing a valuer under this regulation shall be paid by the trustee out of the assets of the REIT.

## PART XXII—CONNECTED PARTY TRANSACTIONS

### **118. Connected party transactions.**

(1) For the purposes of these Regulations, a connected party transaction is a transaction entered into or proposed to be entered into between the trustee or the REIT manager on behalf of the real estate investment trust and a connected person.

(2) Where the REIT manager manages more than one scheme and a transaction or proposed transaction involves two or more schemes managed by the REIT manager, any such transactions shall be deemed to be connected party transactions for each of the schemes.

(3) A transaction carried out on behalf of the trust by the trustee, the REIT manager or any party appointed by the trustee or the REIT manager shall be—

- (a) carried out at arm's length;
- (b) in cases of any real estate transactions be valued by a valuer in accordance with the requirements of the Act and these Regulations;
- (c) consistent with the stated objectives and strategy of the scheme;
- (d) in the best interests of the REIT securities holders; and
- (e) properly disclosed to the REIT securities holders.

(4) Where money is deposited with or borrowed from any connected party being a party authorised to accept deposits and advance loans, the interest to be paid on the deposit shall not be less than that currently applying for deposits of a similar amount and on similar terms and the rate of interest charged on borrowing shall be not greater than that applying to a transaction of a similar amount and on similar terms.

(5) All connected party transactions shall be conducted on terms no less favourable than standard commercial terms and shall be subject to the prior approval of the trustee and where required by the Act or these Regulations by the REIT securities holders.

(6) Where goods or services are to be contracted with a connected party other than for which a fee is charged by the trustee or the REIT manager under regulations 92 and 93, unless the goods and services are to be provided pursuant to a transparent open bidding process, if the proposed cost of the goods and services when aggregated with all other transactions conducted with connected persons relating to the provision of goods and services in the immediately preceding twelve months exceeds or would exceed fifteen percent of the amount spent on connected party provided goods and services, such a contract shall not be entered into or approved by the trustee unless it has first been approved by-

- (a) an ordinary resolution passed by the REIT securities holders at a duly convened meeting; and
- (b) no person connected with the person with whom it is proposed to enter into the contract, shall be entitled to vote.

(7) Details of all connected party transactions and the value of such transactions on an aggregated basis shall be disclosed in the next published semi-annual or annual report of the real estate investment trust.

#### PART XXIII—DOCUMENTS TO BE AVAILABLE FOR INSPECTION BY REIT SECURITIES HOLDERS

##### **119. Documents to be availed for inspection.**

A trustee and a REIT manager shall avail at their principal places of business to the REIT securities holders and any prospective investor, at no charge during ordinary business hours the following documents for inspection—

- (a) the trust deed and any supplemental deeds of the real estate investment trust;
- (b) the first Prospectus or Information Memorandum issued and any supplemental, replacement or subsequent Prospectus or Information Memorandum, including a conversion Prospectus or conversion Information Memorandum;
- (c) the latest annual and semi-annual reports;
- (d) each material contract or document referred to in any Prospectus or Information Memorandum;
- (e) all reports, letters, documents, valuations or statements by any expert or where any part of such document is extracted or referred to in any Prospectus or Information Memorandum the complete version of the document and the consent given by the experts for inclusion in the Prospectus or Information Memorandum;
- (f) copies of any valuation reports undertaken in the previous three years together with assessments or reports by any project manager certifier or structural engineer;
- (g) the audited accounts and any semi-annual unaudited accounts for the real estate investment trust for the past three financial years or if established less than three years, then for the period since establishment;
- (h) the audited accounts for the trustee and the REIT manager for the past three financial years or if established less than three financial years, then for the period since establishment;
- (i) copies of minutes of all the meetings of REIT securities holders; and
- (j) the register of REIT securities holders.



## PART XXIV—ISSUE OF ADDITIONAL REIT SECURITIES

### **120. Issue of additional REIT securities.**

(1) Except where otherwise authorised by the Act or these Regulations, all new or additional issues of REIT securities shall be offered to existing holders on a *pro rata* basis to their existing holdings and shall only be offered or issued to other persons to the extent that they have previously been offered on no less attractive terms to and have not been taken up by existing holders.

(2) Subject to compliance with the Act and these Regulations relating to acquisitions and valuations, this regulation shall not apply to issues—

- (a) of a connected person or an independent third party in full or part payment for the acquisition of real estate assets provided that the aggregate number of REIT securities issued in the previous twelve months, other than on a *pro rata* basis, does not exceed twenty percent of the number of REIT securities on issue at the commencement of that period;
- (b) where the issue has been authorised by an ordinary resolution passed by the REIT securities holders at a duly convened meeting, and at that meeting no person being a connected person with the person to whom it is proposed to issue the REIT securities shall be entitled to vote; or
- (c) made under regulation 28 or regulation 30 to fund a cost overrun.

## PART XXV—MEETINGS OF REIT SECURITIES HOLDERS

### **121. Meetings of REIT securities holders.**

(1) The scheme documents shall provide for the meetings of the REIT securities holders, voting and procedures for the conduct of meetings.

- (2) The provisions in the scheme documents shall—
  - (a) include the matters set out in Schedule 5;
  - (b) be read in addition to the rights set out in the Act and in these Regulations to call meetings; and
  - (c) not conflict with the provisions of the Act or these Regulations.
- (3) In cases where the approval of the REIT securities holders is required—
  - (a) where the proposed transaction involves the promoter or any connected person, neither the promoter nor any connected person shall be permitted to vote at a general meeting on the resolution;
  - (b) details of the proposed transaction together with any connection to the promoter shall be disclosed and a full copy of the valuation provided to all REIT securities holders at the time when the notice of the meeting is given, and
  - (c) the Authority shall receive prior notification of the intended proposal to seek REIT securities holders approval prior to the circulation of any notice.

## PART XXVI—LICENSING OF TRUSTEE AND REIT MANAGER

### **122. Application for a licence by a trustee and a REIT manager.**

An application for a licence to operate as a REIT manager or as a trustee of a REIT scheme shall be submitted to the Authority in duplicate in Form 5 as set out in Schedule 3.

### **123. Specific requirements for licensing as a trustee or REIT manager.**

(1) The application under regulation 122 shall be accompanied with—

- (a) a certificate of incorporation;
- (b) a memorandum and articles of association;
- (c) a statement of audited accounts for the period of the accounting year ending not earlier than six months prior to the date of application and the applicant's audited accounts for the preceding two years and for the entities that at the time of application have been in existence for less than six months from the date of their incorporation, an opening balance sheet and an auditor's certification of the company's share capital;
- (d) a business plan containing particulars on—
  - (i) the management structure;
  - (ii) the directors, including one or more executive directors, their qualifications, addresses and details of other directorships;
  - (iii) the shareholding structure, disclosing whether any of the shareholders will have an executive role to oversee the day-to-day operations of the business;
  - (iv) the evidence of a minimum paid-up share capital of not less than ten thousand currency points for REIT managers or other fee as specified in the Act and the Regulations issued thereunder;
  - (v) the qualifications, experience and expertise of the chief executive;
  - (vi) the proposed management and qualifications of key personnel with capacity to undertake the designated role or the accessibility of the key personnel to such skills and experience;
  - (vii) the financial projections for three years for the trustee and the REIT manager in respect of their businesses;

- (viii) the proposed operating and information technology system to be utilised in connection with the scheme;
  - (ix) one bank reference and in the case where the applicant is a bank, the reference shall be given by another bank independent of the applicant;
  - (x) business references;
  - (xi) the proposed premises suitably located and equipped to provide satisfactory service to REIT securities holders or evidence acceptable to the Authority that such premises will be available;
  - (xii) the staff capable of providing professional services or evidence acceptable to the Authority that such staff will be available; and
  - (xiii) the independent auditor of or proposed for the trustee or the REIT manager;
- (e) the fees as prescribed in Schedule 6.

(2) Every person who is a director, chief executive, REIT manager or trustee, shall be fit and proper to hold the particular position which he holds.

(3) Where the applicant for trustee is a financial institution or an insurance company, it shall obtain and submit to the Authority a no objection letter from its primary regulator.

#### **124. Financial requirements for a trustee and REIT manager.**

(1) The level of shareholders' funds of paid up share capital and reserves for a REIT manager or a trustee, shall not fall below seven thousand five hundred currency points for a REIT manager at any time during the licence period.

(2) The paid up share capital of the REIT manager or a trustee shall always be unimpaired and shall not be advanced to the directors or associates of the REIT manager or the trustee as the case maybe.

(3) A trustee and a REIT manager shall maintain a liquid capital of seven thousand five hundred currency points.

(4) Unsecured advances, loans and other amounts to directors or associates of a REIT manager or trustee shall be made out of shareholders' funds which are in excess of the prescribed minimum shareholders' funds provided that such loans shall not exceed ten percent of the shareholders' funds at any time.

(5) The ratio of the REIT manager's or trustee's borrowings to the paid-up capital shall not exceed twenty percent, at any time.

(6) Where a trustee is a financial Institution licenced under the Financial Institutions Act or an insurance company licenced under the Insurance Act, the trustee shall be considered to be in compliance with these financial requirements as long as it holds a valid licence issued by either the Central Bank of Uganda or the Insurance Regulatory Authority.

## **125. Records to be maintained by trustee and REIT manager.**

(1) Every REIT manager or trustee shall maintain and preserve for a period of ten years which in the case of the sale or disposal of an asset shall be from the date of disposal of the asset and in the case of a borrowing or financing arrangement or risk management transaction shall be from the date of the termination or maturity of the transaction or such later period as is specified, the following records—

- (a) journals, cash receipts, disbursement records and any other records or original entry forming the basis of entries in any ledger in respect of the REIT manager or the trustee's business and in respect of the REIT;

- (b) general and auxiliary ledgers or other comparable records reflecting assets, liabilities, reserves, capital, income and expense accounts in respect of the REIT manager or the trustee's business and in respect of the REIT;
- (c) a record or memorandum of each request, direction or instruction given by the REIT manager or the trustee for the purchase or sale of real estate assets or REIT securities as the case may be or any other asset, investment, request, direction or instruction received by the REIT manager from the trustee or REIT securities holders concerning the purchase, sale, receipt or delivery of a particular real estate asset or REIT securities of other asset or investment and any modification, cancellation or any such order or instruction and the record shall—
  - (i) show the date and terms and conditions of the request, direction, instruction, modification or cancellation;
  - (ii) identify the person connected with the REIT manager who recommended the transaction to the trustee;
  - (iii) all valuation reports requested or obtained;
- (d) all cheque books, bank statements, cancelled cheques and cash reconciliation of the REIT manager or the trustee;
- (e) all bills, statements or copies paid or unpaid relating to the business of the REIT manager or trustee;
- (f) a record or memorandum of all requests, directions or instructions by the REIT manager or the trustee and of any meeting of REIT securities holders held for the purpose of entering into a borrowing, financing or risk management arrangement together with details of any comparative quotes obtained in respect of such transactions which shall be maintained indefinitely;

- (g) originals of all written communication received from REIT securities holders or trustee, copies of resolutions put to or passed by meetings or REIT securities holders and copies of all written communication sent by the REIT manager or trustee relating to—
  - (i) any recommendations made or proposed in a meeting of the REIT securities holders;
  - (ii) any receipts, disbursement or delivery of funds or real estate assets or REIT securities or other assets; and
  - (iii) the placing or execution of any request, direction or instruction to purchase or sell any real estate asset, REIT securities or other asset or investment provided that where the REIT manager sends any notice, circular or other advertisement Information, report, analysis, publication or other investment advisory services to more than ten persons, the REIT manager shall not be required to keep a record of the names, addresses and the source of the information of the persons to whom it was sent except if such notice, circular or advertisement is distributed to persons named on any list;
- (h) all written agreements or copies entered into by the REIT manager with a trustee or REIT securities holder or otherwise relating to the REIT manager's business, the operation of the REIT or the conduct of the REIT managers activities in respect of the REIT which shall be retained indefinitely;
- (i) a copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication recommending the purchase or sale of REIT securities, which the REIT manager circulates or distributes directly or indirectly to ten or more persons and if such notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication does not state the reasons for such recommendation, a Memorandum from the REIT manager

indicating the reasons thereof of all advertisements by the REIT manager and all records, worksheets and calculations necessary to form the basis for performance data in such advertisements;

- (j) a record of every transaction in REIT securities in which the REIT manager or trustee or any of the REIT manager's or trustee's employees acquire any direct or indirect beneficial ownership and the record shall state the title and amount of the security involved, the date, whether the transaction was a purchase or sale or other acquisition or disposition, the price at which it was effected, and the name of the stockbroker with or through whom the transaction was effected;
- (k) a copy of each written statement, the amendment or revision as the case may be, given or sent to any REIT securities holder or prospective REIT securities holder of such REIT and a record of the dates that the same was given or offered to be given; and
- (l) any other records as may be determined by the Authority.

(2) The records specified under sub regulation (1) shall, without notice, be subject to inspection from time to time by the Authority.

## **126. Conduct of REIT manager and trustee.**

(1) A trustee or REIT manager shall not—

- (a) guarantee a REIT securities holder that a specific result will be achieved arising from the advice which will be rendered; or
- (b) publish, circulate or distribute any advertisement which does not comply with the Act and these Regulations;

(2) Information provided by a REIT manager or a trustee to REIT securities holders through reports, newsletters and advertisements shall be factual and accurate.



(3) A REIT manager or trustee shall not lend money to a REIT securities holder unless the REIT manager or the trustee is a financial institution engaged in the business of loaning funds or the loan is made by the trustee on behalf of the D-REIT subject to regulation 13.

#### **127. Reporting by REIT manager and trustee.**

(1) All financial statements prepared by a REIT manager and a trustee as a licensee shall be prepared in accordance with International Financial Reporting Standards and every trustee or REIT manager shall in addition to complying with the reporting obligations in respect of the REIT submit to the Authority—

- (a) half yearly reports of its own financial performance within thirty days before the end of the half year; and
- (b) audited annual accounts for its operations within three months following the closure of the financial year, in the form as may be prescribed from time to time.

(2) Notwithstanding sub regulation (1), the Authority may require such other form of reporting as it may specify.

#### **128. Application of the Collective Investment Schemes (Licensing) Regulations, 2003.**

(1) The Collective Investment Schemes (Licensing) Regulations, 2003, shall be deemed to apply to a trustee or REIT manager licenced under these Regulations as if the trustee or REIT manager was licenced under those Regulations.

(2) The Collective Investment Schemes (Licensing) Regulations, 2003, as regards renewal of a licence, shall apply except that, the reference in the Regulations to “Form 1 set out in the First Schedule” shall be deemed to be a reference to Form 5 as set out in Schedule 3 of these Regulations.

**129. Application of the Capital Markets (Prospectus Requirements) Regulations, SI 84-2**

(1) The Capital Markets Authority (Prospectus Requirements) Regulations, S.I 84-2, shall apply to offers, listing and disclosure in relation to REIT securities and subject to any variations as specified in these Regulations.

(2) Where there is any inconsistency or conflict in the requirements of these Regulations and those of the Capital Markets (Prospectus Requirements) Regulations, these Regulations shall apply to the extent of the inconsistency or contradiction.

**130. Fees**

The fees under these Regulations shall be as prescribed in Schedule 6.

**CURRENCY POINT**

One currency point is equivalent to twenty thousand Uganda shillings.

## MINIMUM CONTENTS OF TRUST DEED

The requirements set out in this Schedule in relation to the minimum contents of a trust deed for a REIT are in addition to the provisions contained in the Act and any other duty or obligation imposed under the laws of Uganda.

A trust deed shall reflect the requirements of the Act and these Regulations.

The trust deed shall include a list of definitions or glossary of terms and a table of contents.

### **1. Establishment of the trust and vesting of property.**

(1) The trust deed shall expressly state that it is binding on the promoter, trustee, REIT manager, all REIT securities holders and investors in REIT securities and any party to the REIT and any scheme to which it relates that is authorised by the Authority, as if each party had been a party to the trust deed.

(2) The trust deed shall be subject to the Act and these Regulations and shall specifically state that, “the provisions of the trust shall apply to the extent that where there is conflict with the Act or these Regulations, the Act and these Regulations shall prevail.

(3) The trust deed shall provide for—

- (a) the creation of the trust;
- (b) the name of the trust;
- (c) the duration of the trust subject to the law on perpetuities;
- (d) a declaration of trust or initial vesting of assets in the trustee by the promoter as settlor of the trust to constitute the fund to be held on trust for the beneficiaries;
- (e) the terms of the trust;
- (f) a statement that the REIT has been authorised by the Authority;
- (g) particulars of the type of trust as provided under regulation 9; and
- (h) any other scheme documents to be governed by the laws of Uganda.

## **2. Appointment of trustee and duty of trustee.**

The trust deed shall include—

- (a) an agreement by the trustee upon establishment of the trust to act as trustee of the REIT subject to the terms of the deed, the Act and these Regulations;
- (b) a clear and unqualified statement of the trustee's fiduciary role and obligations to the REIT securities holders as beneficiaries of the trust and its discretions; and
- (c) an acknowledgement by the trustee that it is bound by the terms of the trust deed, the Act and the Regulations.

## **3. Requirement for segregation of assets and acknowledgement that the trustee has no claim on the assets.**

The trust deed shall specifically include an acknowledgement by the trustee of its fiduciary obligations to—

- (a) hold the assets of the trust in a manner which ensures that these are segregated from the assets of the trustee and from the assets of any other trusts administered by the trustee;
- (b) clearly identify assets which are held on trust for the REIT securities holders as beneficiaries of the REIT;
- (c) not to charge, pledge or deal with any asset of the trust except in a manner authorised by the trust deed, the Act and these Regulations; and
- (d) ensure that the accounts of the trustee do not include any assets of the trust.

## **4. The REIT securities holders as beneficiaries.**

The trust deed shall ensure that the trust is constituted as a REIT securities trust and shall provide for—

- (a) the beneficial interest in the trust to be divided into units called REIT securities;

- (b) the classes of REIT securities and the rights attaching to each class;
- (c) subject to any rights, obligations or restrictions attached to any particular REIT securities, that each of the REIT securities confers a right to an equal undivided interest or share in the assets of the trust as a whole, subject to liabilities, and does not confer an interest in a particular asset;
- (d) the limit of the issue or offer of REIT securities to persons other than the trustee or parties connected with the promoter—
  - (i) until the trust has been authorised as a REIT scheme; and
  - (ii) pursuant to the issue of a Prospectus or Information Memorandum.
- (e) the trustee to issue REIT securities and to register REIT securities in the name of the beneficiary;
- (f) the liabilities of REIT securities holders as investors in REIT securities and shall ensure that their liability is limited to the assets of the trust and shall clearly state that the trust deed and the scheme documents—
  - (i) are binding on the REIT securities holders as if each REIT securities holder had been a party to the trust deed; and
  - (ii) provide the trustee and REIT manager with a range of discretions and powers and authorise and require the trustee and the REIT manager to comply with the trust deed.

## **5. Initial role of promoter and obligations.**

The promoter's role and relationship with the trust shall include—

- (a) the basis of payment or remuneration for the assets vested, acquired, transferred to, vested or acquired by the trustee on behalf of the trust;
- (b) the promoter's ongoing role and relationship with the REIT manager including any arrangement to offer future real estate acquisitions to the trustee and any involvement in development, construction or management of the real estate assets of the trust;

- (c) any leasing arrangement entered into or proposed to be entered into by the promoter or any connected person and the trustee;
- (d) any obligation by the promoter to defer its entitlements or to provide income support;
- (e) any lending or financing arrangement entered into or proposed to be entered into by the promoter or any connected person and the trustee; and
- (f) the lock up period attached to any REIT securities issued or offered to the promoter including in exchange for or in part exchange for assets vested in, transferred to or acquired by the trustee.

## **6. Promoter's covenants.**

Following covenants by the promoter for the benefit of each of the REIT securities holders as beneficiaries including past and future REIT securities holders, the REIT manager and any subsequent trustee or REIT manager, the trustee shall—

- (a) comply with the Act, these Regulations and scheme documents to which it is a party;
- (b) pay the fees, expenses and costs of the trustee associated with the establishment of the trust, the authorisation of the scheme, the preparation, approval and issue of any Information Memorandum or Prospectus including the obtaining of valuations and other expert reports associated with the listing of the REIT securities;
- (c) if the scheme is to be listed, use its best endeavours to provide any required information or support to achieve the listing of the REIT securities in the scheme; and
- (d) assist and provide any required information or support required by the trustee, REIT manager, valuer, auditor or any other party appointed by the trustee or REIT manager for the purposes of undertaking their roles in connection with the trust, the assets of the trust or in fulfilling their obligations under trust deed, the Act or these Regulations.

## **7. Appointment of REIT manager and duties of REIT manager.**

(1) The trust deed shall provide for the trustee to appoint a qualified REIT manager as provided under the Act and these Regulations.

(2) The REIT manager shall be appointed as a contractor and is not the agent of the trustee.

(3) The REIT manager shall be appointed in a fiduciary capacity to fulfil the role of REIT manager as set out in the Act, these Regulations and the trust deed and shall fulfil the objectives of the trust.

(4) The trust deed shall set out in detail the role of and functions to be undertaken by the REIT manager so that the roles of the REIT manager and the trustee are clearly delineated.

(5) The REIT manager shall provide instructions to the trustee to implement the objectives of the trust and may appoint a property manager as its agent and other parties as agents of the REIT manager to assist it in undertaking its functions as REIT manager.

(6) The REIT manager shall be liable for any acts or omissions of its agents.

(7) Provisions which exempt or purport to exempt a REIT manager from liability for any failure to exercise due care and diligence in the discharge of its functions in respect of the real estate investment scheme shall not be included in the trust deed.

## **8. Appointment, retirement, removal and replacement of REIT manager.**

The trust deed shall contain provisions for the appointment, removal and retirement of the REIT manager.

## **9. Objectives of the REIT and eligible assets.**

(1) The trust deed shall set out—

- (a) the purpose and objectives of the trust;
- (b) the discretions of the trustee and the REIT manager in giving effect to the stated objectives; and



- (c) authorised investments and eligible real estate assets in which the trustee can invest.

(2) The trust deed shall identify the initial real estate assets that have been or are to be vested in acquired by or transferred to the trustee on behalf of the trust and set out clearly the implications of the failure to acquire assets within the period of time as provided by the scheme documents, the Act or Regulations.

(3) The trust deed shall set out in detail the requirements of the Act and these Regulations as regarding eligible assets, requirements for minimum investment in real estate and for the generation of income and provide appropriate powers to address these requirements and the implications of non-compliance.

#### **10. Trustee's powers.**

(1) The trust deed shall set out in detail the powers of the trustee and shall clearly delineate between the obligations of the trustee and the REIT manager.

(2) The powers of the trustee may be limited to acting in accordance with the directions of the REIT manager provided that the directions are—

- (a) in accordance with the terms of the trust deed and the Prospectus or Information Memorandum;
- (b) in conformity with the Act, these Regulations and the law relating to trusts and trustees; and
- (c) are in the trustee's opinion, in the best interests of the REIT securities holders.

(3) A provision included in the trust deed which exempts or purports to exempt a trustee from liability for any failure to exercise due care and diligence in the discharge of its functions in respect of the real estate investment scheme is void as provided under regulation 20.

(4) The trust deed may provide for the trustee to delegate to an agent, officer or employee provided that the trustee remains personally liable for the fraud, negligence or default of its delegates and for the costs, fees and expenses of any delegate.

(5) The trustee shall have power to appoint valuers, lawyers, accountants and other professionals for the purpose of permitting the trustee to carry out its duties and perform its obligations and shall charge their fees, costs and expenses to the trust.

#### **11. Trustee's borrowing capacity and ability to charge trust assets as security and right to indemnity.**

(1) The trust deed shall set out the limits of the trustee's capacity to borrow and charge the trust assets as security.

(2) The trustee shall be entitled to limit its exposure or liability for any borrowing to the assets of the trust subject to Act, these Regulations and the laws relating to trusts and trustees.

#### **12. Trustee's covenants.**

The trust deed in addition to providing for the usual fiduciary obligations of a trustee for the benefit of each of the REIT securities holders as beneficiaries and the past and future REIT securities holders, the REIT manager and any subsequent trustee or REIT manager shall, contain as a minimum, the following covenants by the trustee—

- (a) act continuously as the trustee until the trust terminates, the trustee retires or is removed in accordance with the trust deed;
- (b) act honestly, prudently and in good faith at all times in the best interests of the REIT securities holders as beneficiaries in the performance of its duties and the exercise of discretion and due care, skill, diligence and vigilance in carrying out its functions and duties as a trustee and in safeguarding the rights and interests of the REIT securities holders;
- (c) take custody and control of all assets of the trust and hold the assets on trust for the REIT securities holders;
- (d) open a separate trust account in the name of the trustee, appoint authorised signatories and ensure that the trust accounts are only used for the purposes of the trust and as provided for by the scheme documents;

- (e) take all necessary steps to ensure that the assets of the trust are adequately protected and insured in the name of the trustee;
- (f) comply with the Act, these Regulations and terms of the trust deed and scheme documents to which it is a party;
- (g) ensure that the scheme has appointed a suitably authorised REIT manager and in the interim period, act in the capacity as the REIT manager;
- (h) actively monitor the administration of the assets of the fund and the performance by the REIT manager to ensure compliance with the Act, Regulations and the scheme documents to which it is a party and ensure that the interests of REIT securities holders are being upheld;
- (i) monitor the activities of the REIT manager to guard against the REIT manager using its position to gain directly or indirectly an advantage for itself or another person or to cause detriment to the interests of REIT securities holders;
- (j) make, when due, all authorised payments, including distributions required by the scheme documents or requested to be made by the REIT manager in accordance with the terms of the scheme documents;
- (k) cause to be kept proper books of account and records for all investments and assets of the trust, liabilities or charges incurred including taxes and imposts and transactions entered into by the trustee or the REIT manager and distributions made;
- (l) ensure that reports and accounts are prepared as required by the Act and these Regulations and circulated to REIT securities holders and filed with the Authority;
- (m) appoint auditors and ensure that audits are undertaken as required by the Act and these Regulations to protect the interests of REIT securities holders;
- (n) appoint valuers as required and take all reasonable steps to ensure that the assets of the trust are correctly valued as required by the Act, these Regulations and the trust deed;

- (o) ensure that at all times through proper, adequate and diligent supervision the fund and the scheme are managed and administered by the REIT manager in accordance with the objectives of the trust, the trust deed, the Act and these Regulations;
- (p) notify the Authority to call a meeting of REIT securities if it becomes aware of a breach of the trust deed, the Act or these Regulations on any matter that could properly be regarded by a trustee as not being in the interests of the REIT securities holders;
- (q) convene or cause the trustee to convene meetings of REIT securities holders whenever required by the Act, these Regulations or the trust deed;
- (r) ensure that the offer, issue, sale, purchase, repurchase, creation, redemption or cancellation of REIT securities is in accordance with the terms of the trust deed, the Act and these Regulations;
- (s) not enter into any contract, agreement or arrangement which is in conflict with or purports to override any term or obligation of the trust deed, the Act or Regulation; and
- (t) where the Act or these Regulations impose a specific requirement, obligation or duty on the trustee, reflect in the trust deed by way of a specific covenant, the requirement, obligation or duty.

### **13. Appointment, retirement, removal and replacement of trustee.**

The trust deed shall provide for—

- (a) the appointment of the initial trustee and the successor trustees;
- (b) the retirement of the trustee;
- (c) the vesting of the assets of the trust in a successor trustee and the transfer of all books, accounts, documents, reports and records including access to all required software and electronic records to the successor trustee;
- (d) the preservation of the rights, obligations, liabilities and any causes of action by or against an outgoing trustee which arose or accrued before the retirement or removal of the outgoing trustee; and

- (e) the requirement of an outgoing or prior trustee to assist and join in any subsequent action by a trustee or the Authority on behalf of REIT securities holders against any party.

#### **14. Reit manager's covenants.**

The trust deed in addition to providing for the usual obligations of a REIT manager to implement and give effect to a real estate investment trust of the designated type shall contain, as a minimum, the following covenants by the REIT manager for the benefit of each the REIT securities holders as beneficiaries including past and future REIT securities holders, the trustee and any subsequent REIT manager—

- (a) conduct its business and role as the REIT manager in a proper diligent and efficient manner to implement the objectives of the trust in an exclusive manner and in the best interest of REIT securities holders and shall comply with the terms of the scheme documents, the Act and these Regulations;
- (b) act with due care, skill and diligence in managing the fund and the trust and effectively employ the resources and procedures necessary for the proper exercise of its duties and role in order to achieve the objectives and performance of the scheme;
- (c) comply with the Act, these Regulations, terms of the trust deed and scheme documents to which it is a party;
- (d) acquire, invest in, manage, lease and dispose of assets as authorised in the trust deed in accordance with the stated objectives of the trust so as to achieve optimum returns for REITS securities holders;
- (e) conduct any construction and development activities in an efficient manner within terms of the objectives of the trust and the risk profile established for the trust;
- (f) take all necessary steps to ensure that the assets of the trust are adequately protected and insured in the name of the trustee and segregated;
- (g) not to enter into or recommend to or otherwise cause the trustee to enter into contracts on behalf of the trust unless the transactions are authorised by the trust deed and are for the purposes of operating a REIT and do not contravene the Act or these Regulations and are in the best interests of the REIT securities holders;

- (h) ensure that all payments or monies collected on behalf of the trustee are paid as soon as possible and in any event no later than the next business day into the trust's designated bank account in the name of the trustee and that payments are only requested to be made from a bank account in accordance with the trust deed, the Act and these Regulations;
- (i) ensure that all payments required to be made by the trust, including distributions, are requested from the trustee and are made when payment is due;
- (j) prepare recommendations as to distributions and draft distribution statements when required by the Act and these Regulations;
- (k) ensure that assets are correctly valued and are valued in time as required by the trust deed, the Act and these Regulations;
- (l) not exercise any voting rights that the REIT manager may hold in respect of REIT securities in the trust except if authorised by the Act or the Regulations and to avoid conflicts of interest;
- (m) prepare and maintain proper accounting records and reports in respect of the REIT manager and deliver a copy to the trustee;
- (n) facilitate and assist in the audit of accounts and provide access to all accounts, records, documents and reports and any assistance that is required for the preparation of the reports and accounts;
- (o) notify the Authority to call a meeting of REIT securities holders if it becomes aware of a breach of the trust deed, the Act or these Regulations of any other matter that could properly be regarded as not being in the interests of REIT securities holders and take any other steps as are necessary to protect the interests of REIT securities holders;
- (p) ensure that the offer, issue, sale or purchase or repurchase, creation, redemption or cancellation of REIT securities is in accordance with the terms of the trust deed, the Act and these Regulations and in the case of an unlisted trust, that the REIT securities of the trust are correctly priced;

- (q) not to misuse information or knowledge gained in its capacity as a REIT manager or to use its position as REIT manager to gain an improper advantage for itself or another party or to gain a direct or indirect advantage for itself or another person or to otherwise cause detriment to REIT securities holders;
- (r) convene or cause the trustee to convene meetings of REIT securities holders whenever required by the Act, these Regulations or the trust deed;
- (s) not enter into any contract, agreement or arrangement which is in conflict with or purports to override any term or obligation of the trust deed, the Act or these Regulations; and
- (t) where the Act or these Regulations impose a specific requirement, obligation or duty on the REIT manager, this will be reflected in the trust deed by way of a specific covenant by the REIT manager.

#### **15. Joint covenants of trustee, promoter and REIT manager.**

The trust deed, as a minimum, shall contain the following joint covenants by the trustee and REIT manager for the benefit of each of the REIT securities holders as beneficiaries, including past and future REIT securities holders, the trustee and the REIT manager and any subsequent trustee or REIT manager to—

- (a) comply with and implement the requirements of the trust deed, the Act and these Regulations and to undertake their roles and act in the best interests of the REIT securities holders to fulfil the objectives of the trust deed;
- (b) where the trust is to be listed, to ensure that at all times each of the trustee and the REIT manager individually and jointly use their best endeavours to list and to maintain the listing of the scheme on the designated exchange; and
- (c) comply with the connected persons obligations of the trust deed, the Act and Regulations to avoid any conflict of interest and ensure that neither the REIT securities holders nor the trust are disadvantaged by any transactions entered into.

#### **16. Income and capital gains entitlements and distributions.**

The trust deed shall set out particulars of—

- (a) the distribution policy of the scheme;
- (b) the entitlements of various classes of REIT securities holders to distributions of income, profits, capital gains or capital or from other sources;
- (c) the REIT manager and trustees obligations under the Act and these Regulations in relation to distributions and the discretion to vary distribution from the minimum specified under these Regulations and the implications of not making a minimum distribution.

#### **17. Initial issue of reit securities.**

In making a decision as to the type of REIT and whether or not the REIT securities are to be listed, the trust deed shall provide for—

- (a) the issue of REIT securities;
- (b) the issue of certificates and registration;
- (c) the circumstances in which repurchase or redemption may be required or sought and the REIT securities holder's rights and any period in which repurchase or redemption cannot be sought or the trustee's or REIT manager's right to defer or suspend repurchase or redemption; and
- (d) unlisted REIT securities full particulars of pricing policy and the basis of calculation and regularity of re-pricing.

#### **18. New issues of REIT securities.**

In making a decision as to the type of REIT and whether or not the REIT securities are to be listed, the trust deed shall provide for—

- (a) the powers and procedures to be adopted in order to issue new REIT securities;
- (b) the entitlement of existing REIT securities holders to participate in a new issue; and
- (c) the pricing of the new issue.

#### **19. Right to redemption of units of reit securities.**

(1) The trust deed shall clearly set out whether or not the holder of REIT securities has any right to request the trustee through the REIT manager to redeem it's holding of REIT securities in whole or in part.



(2) Where there is no right to request redemption, a caution shall be clearly stated in bold, that, ***“the REIT securities’ holders are not entitled to seek redemption.”***

(3) Where the trust deed does not provide for redemption, it shall set out exceptions to acquiring redemption as follows—

- (a) the terms on which redemption can be sought including deferral periods, preconditions, trigger events, number, notice periods and redemption dates;
- (b) the process and procedure for seeking redemption;
- (c) the manner in which units are to be valued and the calculation of the redemption price; and
- (d) the ability of the trustee or the REIT manager to limit, suspend or cancel redemptions.

## **20. Appointment of valuers and valuation of assets.**

The trust deed shall clearly set out—

- (a) the requirements for appointment of valuers and the obligations to conduct valuations in accordance with the minimum requirements of the Act and these Regulations;
- (b) the powers and obligations of the trustee and REIT manager in relation to the appointment of valuers and the conduct of valuations; and
- (c) the discretion of the trustee to conduct a valuation in the interest of REIT securities holders, and specifically address the requirements in the case of connected person transactions.

## **21. Trustee’s costs, fees and expenses.**

The trust deed shall clearly set out—

- (a) the trustee’s entitlement to fees and to receive reimbursement or charge expenses and costs to the trust;
- (b) the method of calculation of the trustee’s fees and basis of payment;
- (c) the entitlement of the trustee to be paid fees, costs and expenses in priority to any other payment;
- (d) the obligation of the trustee to defer or suspend receipt of fees; and

- (e) the trustee's entitlement to an indemnity for fees, costs and expenses incurred.

## **22. REIT manager's costs, fees and expenses.**

The trust deed shall clearly set out—

- (a) the REIT manager's entitlement to fees and to receive reimbursement or charge expenses and costs to the trust;
- (b) the method of calculation of the REIT manager's fees and basis of payment;
- (c) the priority accorded to the payment of the REIT manager's fees, costs and expenses;
- (d) the obligation of the REIT manager to defer or suspend receipt of fees; and
- (e) the entitlement to an indemnity for fees, costs and expenses incurred.

## **23. Amendments to scheme documents.**

The trust shall set out the process and procedure to be adopted in order for amendments to be made to scheme documents.

## **24. Connected person transactions.**

The trust deed shall set out in detail the powers and obligations of the trustee and the REIT manager, subject to the requirements of the Act and Regulations, to enter into transactions with connected persons and the process and procedure to be adopted which shall include—

- (a) the requirement to call a meeting of REIT securities holders; and
- (b) the voting arrangements and the limits imposed on the ability of connected persons who are also REIT securities holders to vote at such a meeting.

## **25. Meetings of REIT securities holders.**

The trust deed shall set out—

- (a) the obligation to convene an annual meeting of REIT securities holders and the rights of the REIT securities holders at the meeting; and

- (b) the obligation, process and procedure for calling meetings by the Authority, trustee, REIT manager and REIT securities holders.

## **26. Transfers and restrictions on transfers.**

The trust deed shall include the process and procedure for transfers and in making a decision as to the type of REIT and whether or not the REIT securities are to be listed, the trust deed shall provide for—

- (a) the rights to transfer units;
- (b) the trustee's obligation to register a transfer; and
- (c) the restrictions on transfer, requirements for evidence of qualification and the trustee's obligation and powers not to register a transfer.

## **27. Possible future conversion from D-REIT to I-REIT or issue of prospectus to permit issue or offer.**

(1) Where the REIT is a D-REIT the trust deed may include provisions relating to the rights or obligations of the REIT manager to request the trustee to exercise the conversion rights as provided in these Regulations.

(2) Where provision is to be made for conversion, the trust deed shall set out the process and procedure to be adopted and the rights of REIT securities holders.

## **28. Termination and winding up of the trust**

The trust deed shall contain detailed provisions in relation to termination and winding up of the trust and shall include details of -

- (a) the circumstances in which the trust may be terminated or wound up;
- (b) the rights of REIT securities holders to call for termination or winding up;
- (c) the requirement for calling of meetings and voting rights;
- (d) the distribution of the assets and priority of distribution; and
- (e) the payment of expenses and provision of indemnities.

## **Schedule 3 - FORMS**

### **FORM -1**

#### **APPLICATION FORM**

*Reg. 17*

#### **THE COLLECTIVE INVESTMENT SCHEMES (REAL ESTATE INVESTMENT TRUSTS) REGULATIONS, 2016**

#### **AUTHORISATION AS A REAL ESTATE INVESTMENT TRUST SCHEME**

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An application for authorisation of a REIT scheme shall be submitted jointly by the promoter and the trustee\*.

Please include the information listed below (*separate sheets may be attached where necessary*):

1. Name of the REIT.
2. State—
  - (a) whether the authorisation is being sought as a D-REIT or an I-REIT;
  - (b) whether the REIT is structured as a closed ended fund; and
  - (c) if the REIT is to be an I-REIT and shall accordingly be the subject of a restricted offer
3. State in summary, the objectives of the REIT.
4. State the name, telephone number, facsimile email address and registered office of the following parties and where a party is yet to be appointed, give details of the party proposed for appointment—
  - (a) the promoter or issuer, directors and CEO;
  - (b) the transaction adviser;

- (c) the trustee, the directors, CEO and the designated representative or compliance officer;
- (d) the REIT manager, directors, CEO and the designated representative or compliance officer;
- (e) the property manager; (*where applicable*)
- (f) the structural engineer;
- (g) the project manager certifier; (*where applicable*)
- (h) the auditor and any reporting accountant;
- (i) the valuer; and
- (j) the legal adviser.

5. Please attach the following in support of the application:

- (a) prior consents and approvals where these are required by the Act or the Regulations;
- (b) the Trust Deed or draft Trust Deed;
- (c) a draft Prospectus or an Information Memorandum;
- (d) Management Services Agreement with the REIT manager or the proposed agreement;
- (e) agreements with the property manager or the proposed agreement;
- (f) agreements with the property manager certifier or the proposed agreement;
- (g) certified copies of the valuations of the real estate vested in or to be vested in, acquired or transferred to the REIT;
- (h) signed and dated legal opinion on the title of the real estate vested in or to be vested in, acquired or transferred to the REIT;
- (i) a certified copy of the report of the structural engineer;
- (j) audited financial statements of the REIT manager for the financial year immediately preceding the application for authorisation;
- (k) audited financial statement of the trustee for the financial year immediately preceding the application for authorisation;
- (l) consents of experts to inclusion;
- (m) certified copies of any other scheme documents and material contracts; and

(n) proof of payment of the prescribed application fee.

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

.....  
PROMOTER

.....  
TRUSTEE

**STATUTORY DECLARATION**

We ..... as directors of ..... Limited and ..... Limited, being the promoter and trustee respectively of the proposed REIT scheme, do depone and state that we have read and understood the requirements of this application form and hereby certify under oath that the foregoing answers, statements and annexures thereto are true and correct to the best of our knowledge, information and belief.

SWORN at..... this..... day of..... 20.....

BY:

.....  
PROMOTER

.....  
TRUSTEE

**BEFORE ME:**

.....  
**COMMISSIONER FOR OATHS**

**\*The material submitted shall be in two indexed binders. The pages of all documents submitted shall be numbered and a check list provided which corresponds to the relevant requirements of the Act, these Regulations and the applicable Schedule addressed.**

**FORM -2**

*Reg. 19(3)*

**THE COLLECTIVE INVESTMENT SCHEMES (REAL ESTATE  
INVESTMENT TRUSTS) REGULATIONS, 2016**

**AUTHORISATION CERTIFICATE**

The **CAPITAL MARKETS AUTHORITY** hereby certifies that

.....  
.....  
has received authorisation as a Real Estate Investment Trust Scheme under sections  
30, 31 and 84 of the Collective Investment Schemes Act, 2003 and the Collective  
Investment Schemes (Real Estate Investment Trusts) Regulations, 2016.

**CONDITIONS:**

.....  
.....  
.....  
Dated this ..... day of ..... 20.....

.....  
**SEALED** with the common  
seal of the **Capital Markets**  
**Authority** in the presence of:

.....  
*Chairperson*

.....  
*Chief Executive*

**NB:** *Please note that the above authorisation should not be construed as a  
recommendation as to the merits of the above scheme and the  
Authority shall not be liable for any action as a result of this  
authorisation.*

## **FORM -3**

Reg. 25(2)(a)

### **THE COLLECTIVE INVESTMENT SCHEMES (REAL ESTATE INVESTMENT TRUSTS) REGULATIONS, 2016**

#### **CONTENTS OF PROSPECTUS OR INFORMATION MEMORANDUM**

##### **1. Application.**

The provisions of this form apply to all issues and offers of REIT securities which fall under the Act or the Regulations and apply irrespective of whether the issue or offer is made pursuant to a Prospectus or an Information Memorandum.

The assets to be included in real estate investment trust scheme and the activities of the scheme may vary significantly. Consequently, there is a need for flexibility in what is required to be disclosed. It is, however, the obligation of the issuer, the trustee and experts whose reports are contained or summarised in the Prospectus or Information Memorandum to ensure that there is full, adequate and proper disclosure to potential investors and REIT securities holders and that the structure of the transaction and the terms of all the scheme documents comply with the Act and the Regulations.

##### **2. Consideration of type and financial education of potential investors.**

In preparing the Prospectus or Information Memorandum consideration shall also be given to the type and level of financial education of the persons to whom the issue or offer is to be made; the level of disclosure required; the language used, and the level of explanation provided.

##### **3. Power of authority to grant exemptions or variations.**

- (1) The Authority may grant exemptions or permit variations from the requirements of this Schedule where it is of the opinion that such exemption or variation is required given the particular nature of the assets or the activities of the real estate investment trust or scheme or to address the conversion of a D-REIT to an I-REIT or to permit a restricted I-REIT to be listed provided that such exemption or variation will not disadvantage REIT securities holders or potential investors in REIT securities.



- (2) The Authority may require inclusion of additional information or material or the omission of information or material or other changes be made to a Prospectus or Information Memorandum and may impose conditions on its approval.

#### **4. Reference to assets of a REIT.**

A reference in this Schedule to assets being assets of the REIT means assets vested, acquired, transferred or held or to be held by the trustee under the terms of the trust deed for investors in REIT securities as REIT securities holders and as beneficiaries of the real estate investment trust.

#### **5. Minimum requirements.**

This Schedule sets out minimum requirements for matters to be included in a Prospectus or Information Memorandum. The requirements do not reduce or in any way impact on the overriding obligations to provide disclosure as provided for in the Act, the Regulations and the law of Uganda.

### **PART 1**

#### **GENERAL REQUIREMENTS, FOR ISSUER AND PARTIES RESPONSIBLE.**

1. The prospectus or information memorandum shall include—
  - (a) glossary of defined terms and abbreviations;
  - (b) table of contents;
  - (c) whether the REIT is a D-REIT or an I-REIT or issued in connection with a D-REIT converting to an I-REIT or a restricted I-REIT becoming unrestricted, etc;
  - (d) a clear statement of the persons to whom the offer is made or to whom the issue of REIT securities can be made and of the qualifications, if any, to be met in order for a person to invest;
  - (e) the objectives of the REIT;
  - (f) summary of the number, price and class of REIT securities being issued or offered and the rights attached thereto;

- (g) summary of the transaction, REIT securities and key risks with a cross reference to the pages of the Prospectus or Information Memorandum which includes a warning in **bold type-face** that this is only a summary and investors shall read and understand the whole Prospectus or Information Memorandum;
  - (h) statement as to whether or not the REIT securities are to be listed or not and whether or not a REIT securities holder can seek redemption, the conditions attached to seeking redemption and include a prominent warning to investors in **bold type-face** in relation to the potential liquidity of the investment in REIT securities;
  - (i) the on-going role of the promoter or other issuer and investment in the REIT;
  - (j) the structure diagram which summarises the parties, relationship, roles of parties and cash flows;
  - (k) a statement as to any financial structuring mechanisms utilised or incorporated in the trust structure and the potential impact on performance and on future distributions; and
  - (l) a summary of the obligations of the trustee and REIT manager under the Act and the Regulations including eligible investments, source of income and minimum distributions and the impact on the taxation of the REIT or on distributions if these requirements are not complied with.
2. All pages shall be consecutively numbered and a type-face of not less than Times New Roman 10 points used.
  3. The names, addresses and telephone numbers and email contacts of the promoter or other issuer or offeror, of each person associated with the issue or offer, the Prospectus or Information Memorandum or any part thereof, and their functions and shall include—
    - (a) the Promoter or other issuer or offeror responsible for the issue and the offer and where a company or corporation the directors of such a person;

- (b) the transaction adviser;
- (c) the trustee and the trustee's directors, compliance officer and other key personnel;
- (d) the REIT manager and the REIT manager's directors, compliance officer and other key personnel;
- (e) any property manager appointed or to be appointed by the REIT manager;
- (f) the structural engineer;
- (g) any project manager certifier;
- (h) the valuer appointed by the trustee;
- (i) the auditor appointed by the trustee;
- (j) the reporting accountant; (*where applicable*)
- (k) the REIT securities registrar;
- (l) the legal adviser appointed by the trustee; and
- (m) other experts and advisers whose names appear in the Prospectus or Information Memorandum or who have been appointed.

4. In all cases the Prospectus or Information Memorandum shall contain on the cover and in a prominent position in the document the words:

“In making your investment decision to invest in REIT securities you should be aware that there is very limited, if any, recourse to the assets of the issuer or the trustee.

Your investment in REIT securities and as a REIT securities holder in the REIT is as an equity investor. Distributions and return of capital is not guaranteed and are entirely dependent on the performance of the assets of the real estate investment trust.

Your rights in most cases will be limited solely to the assets of the real estate investment trust.

If the trustee is authorised to borrow on behalf of the trust, then your rights to distributions and to the assets will rank after the payments to lenders.

The trustee, REIT manager and other parties are also entitled to receive payment of fees and expenses ahead of payments to REIT securities holders who invest in REIT securities.”

5. The date of publication of the Prospectus or Information Memorandum and the period for which the offer is open and how applications can be made. A statement that no REIT securities can be issued based on this Prospectus or Information Memorandum more than six months after the stated date of the publication of the Prospectus or Information Memorandum.
6. A statement that the scheme has been authorised by the Authority but that authorisation by the Authority is not a recommendation or a statement by the Authority in relation to the suitability of the REIT for investment or as to the risks and that the Authority has no liability.
7. A statement that the Prospectus or Information Memorandum has been approved by the Authority and the limitation on the liability of the Authority but that approval by the Authority is not a recommendation or a statement by the Authority in relation to the suitability of the REIT for investment or as to the risks and that the Authority has no liability
8. Include a statement in the following words:

*“If you are in any doubt about the contents of this document or the nature or the transaction or investment or the risks attached to the investment then you should consult a person licenced under the Capital Markets Authority Act, Cap 84 and the Collective Investment Schemes Act, 2003 who specialises in advising on investments in or acquisitions of securities, including REIT securities in schemes.”*
9. A statement as to the full accountability for liability for statements and misrepresentations included in the Prospectus or Information Memorandum and omissions by the promoter, issuer and the liability of other parties and experts for statements made by them and inclusions, misrepresentations and omissions.
10. Include a statement, signed by each of, the directors of the issuer or offeror, the transaction adviser and the legal adviser appointed by the trustee to act on behalf of REIT securities holders that:

- (a) the Prospectus, Information Memorandum and the scheme documents comply with the Act and the Regulations, and
- (b) in the case of the issuer and the directors of the issuer that they, collectively and individually, and having made all reasonable enquiries confirm to the best of their knowledge and belief, that there are no false or misleading statements or omissions of other facts which would make any statement in the Prospectus or Information Memorandum false or misleading.

## **PART 2**

### **THE STRUCTURE OF THE TRANSACTION, THE TRUST, THE FUND, SCHEME & NATURE OF THE REIT SECURITIES BEING ISSUED OR OFFERED AND OBJECTIVES**

1. An explanation of the nature of the investment being offered as REIT securities in the form of units in a trust established as a REIT and an authorised real estate investment trust scheme authorised by the Authority, including—
  - (a) an explanation of the nature of a trust and the respective roles of the trustee and the REIT manager;
  - (b) detail of the REIT securities being issued or offered, their class and the rights attached thereto and restrictions on the persons to whom an issue or an offer can be made;
  - (c) details of any restrictions on the transferability of REIT securities;
  - (d) the term of the trust;
  - (e) whether the trust is to be open or closed and the implications;
  - (f) listing and redemption rights and entitlements;
  - (g) the classification as either a D-REIT or an I-REIT or as a D-REIT converting to an I-REIT or a restricted I-REIT converting to an unrestricted I-REIT;
  - (h) the objectives of the trust and of the scheme;
  - (i) a brief description of the investment strategy of the REIT manager to meet the objectives of the fund and the scheme;
  - (j) the number and price of the REIT securities being issued or offered;

- (k) the use to be made of the proceeds of the issue or offer;
  - (l) how an application for REIT securities can be made and the closing date for applications; and
  - (m) the costs, fees and charges associated with the establishment of the REIT and the scheme and by whom these are to be paid.
2. Include details of the requirements for continuing as an authorised real estate investment trust scheme and the requirements including those relating to investment in eligible assets, income and distribution of the Act and these Regulations and the taxation implications for the scheme and on implications for failure to comply.

### **PART 3**

#### **ELIGIBLE ASSETS OF THE TRUST AND PROPOSED ACTIVITIES OF THE SCHEME**

1. Include a summary of the eligible or permitted assets of the specific REIT including restrictions and the focus and objectives of the fund and the scheme. These must comply with the Act and the Regulations but may impose additional restrictions on the sectors or type of assets that the trustee is authorised to invest in and the activities of the scheme, including the trustee's power to borrow and the level of development and construction activities that an I-REIT may engage in.
2. Detail the assets vested in the trust, when and from whom acquired or transferred and the price paid and if not in cash the consideration paid, including by way of issue of REIT securities or otherwise.
3. Include details of the real estate assets that it is proposed to invest in or the initial development and construction activities that it is initially proposed to engage in. These shall be supported by—
- (a) valuations and structural engineer's reports to be summarised in the Prospectus or Information Memorandum,
  - (b) copies of the valuations and reports shall be included in the list of documents available for inspection; and

- (c) summarised details of the legal opinion in relation to transfer or acquisition of the real estate and the title shall be included in the Prospectus or Information Memorandum with full copies available for inspection.
- 4. Detail the strategy of the REIT manager in implementing the objectives.
- 5. Where the REIT is a D-REIT, the following shall be provided in detail:
  - (a) The development and construction activities to be undertaken and the budget and estimates for undertaking such activities.
  - (b) Consents and approvals to be obtained and the time frame for such.
  - (c) The time frame over which the total development and construction activities are intended to be conducted.
  - (d) The REIT manager's strategy as to sale or lease of the completed properties or a combination of both and the time frame until it is anticipated that cash flows will be generated.
  - (e) Any foreign exchange exposure, for example, as regards the acquisition of any plant or equipment or building materials.
  - (f) Any structural engineer's report or of a quantity surveyor or of any project manager.
- 6. Details of permitted non-real estate assets and restrictions on investment and REIT manager's strategy as regards such investment.
- 7. Risk management strategies to be employed by the REIT manager.
- 8. If the REIT is an I-REIT but proposes undertaking development and construction activities within the limit provided for in the Act and Regulations detail the development and construction activities to be undertaken, consents and approvals required, and the budget and estimates for undertaking such activities and the time frame over which such activities shall be conducted and the time frame until it is anticipated that cash flows will be generated and the potential impact of delays or cost increases on the performance of the scheme and on distributions and the exposure, if any, to foreign exchange risk.

9. Include details of the level of borrowings and the assumed terms and interest rates.
10. Include details of the limitations contained in the Act and Regulations depending on the classification of the REIT, on borrowing levels and on the REIT manager's strategy on borrowings and level of gearing of the assets of the REIT.
11. Include a statement that material changes can only be made to the objectives and eligible assets of the REIT if authorised by the Act and the Regulations and approved by the REIT securities holders.

## **PART 4**

### **THE REIT MANAGER AND PROPERTY MANAGER**

1. Provide details of the REIT manager including, the directors and key personnel and their experience in the management of property and resources and experience in the conduct of development and construction activities.
2. Outline the role of the REIT manager and its obligations as a fiduciary to REIT securities holders.
3. Detail how the REIT manager proposes to fulfil its role and obligations and appointments of agents, including a property manager or structural engineer or project manager, or delegations it has made or it proposes to make.
4. Policy on the making of recommendations to the trustee of distributions and the implications of a lower than the prescribed minimum distribution being made.
5. Include details of any property manager and its experience and of the fees to be paid to any property manager by the REIT manager.
6. Include as an Appendix the last audited accounts of the REIT manager and any property manager.
7. Include details of the term of the appointment, rights to reappointment, rights to resign and the rights to remove the REIT manager and its rights to fees and to payment or reimbursement of expenses.



8. Include a statement as to the REIT manager's prior or any ongoing association with the promoter, issuer or any other party associated with the REIT or the real estate assets transferred or to be acquired and its ongoing connections or roles.

## **PART 5**

### **THE TRUSTEE**

1. Details of the trustee including directors, name of its chief executive officer and of the compliance officer.
2. Include details of the trustee's experience, resources and its other key personnel.
3. Include a description of the trustee's role, duties, responsibilities and obligations as a fiduciary and its powers.
4. Disclose the trustee's powers to recommend a lower distribution and the implications of a lower than the prescribed minimum distribution being made.
5. Disclose any potentially conflicting or competing roles and detail any current, pending or threatened litigation against the trustee which might materially affect the resources or financial capacity of the trustee to fulfil its role or responsibilities as the trustee of the REIT.
6. Include as an Appendix the last audited accounts of the trustee.

## **PART 6**

### **KEY TERMS OF THE TRUST DEED AND SCHEME DOCUMENTS**

1. A summary of the key aspects of the trust deed shall be included. This summary shall as a minimum include details of- (*where the required details have been disclosed elsewhere in the document then a cross reference may be included in this Part*)
  - (a) the trustee's, REIT manager's, valuers', auditor's and structural engineers and any project manager's roles, responsibilities and obligations;

- (b) the liabilities of the trustee and REIT manager and the invalidity of any purported limitation on fiduciary liability;
- (c) the powers of the trustee and REIT manager;
- (d) the requirement to appoint and provisions relating to the removal, retirement or replacement of—
  - (i) the trustee;
  - (ii) the REIT manager;
  - (iii) an auditor;
  - (iv) valuers;
  - (v) structural engineers; and
  - (vi) project manager.
- (e) the obligation to conduct valuations and frequency of valuations;
- (f) the obligation to call meetings and the rights of REIT securities holders to call meetings and receive reports and financial statements;
- (g) the rights of REIT securities holders, including limitations of those rights and decisions or actions requiring the approval of REIT securities holders;
- (h) the requirements for listing; (*where applicable*)
- (i) the rights and limits on the ability to call for or to obtain redemption of REIT securities;
- (j) the circumstances in which connected persons are not permitted to exercise voting rights in respect of REIT securities held by them;
- (k) the maximum fees and charges permitted by the trust deed and payable by investors either directly or indirectly or out of the assets of the trust;
- (l) the permitted expenses, costs and charges payable out of or reimbursable from the assets of the fund; and
- (m) the termination or winding up of the trust and scheme.

2. Shall include a summary of the material terms of other scheme documents including any documents appointing or governing the relationship with the REIT manager or any other party or adviser or underwriter.

## **PART 7**

### **THE ASSETS, VALUATIONS & BASIS OF VALUATION & HISTORIC INFORMATION ON THE INCOME & EXPENSES ASSOCIATED WITH THE ASSETS**

1. Include all the details of the real estate and other assets vested or to be vested in acquired or transferred to the REIT within the first year and the proposed dates of vesting, transfer or acquisition.
2. The implications, under regulations 66 or 78 on the failure to invest within one hundred and eighty days should clearly be set out.
3. The details required will vary significantly depending on the nature of the assets and the real estate sector. For example, the considerations for investment in office buildings will be largely determined by the market for office accommodation and the state of the economy, this contrasts with real estate investments in, for example, residential housing, hospitals, hotels, retail shopping malls, factories or storage or ports or other sectors. In each case the key drivers will vary and the information disclosed will need to be adapted. By way of an example only the Prospectus or Information Memorandum shall include—
  - (a) title particulars of real estate;
  - (b) details of any encumbrances, easements or restrictions on use;
  - (c) confirmation that the REIT owns or will own on completion of the vesting, transfer or acquisition the whole of each real estate asset or if not detail extent and confirm compliance with the requirements of the Act and Regulations;
  - (d) description of any buildings or fixtures erected on any land together including age, with details of the structural engineer's report on the real estate, including details of monies which the structural engineer estimates need to be spent on the real estate assets in order to bring them to a reasonable state of repair together with estimates of ongoing maintenance requirements for and costs;

- (e) photographs may be included but these shall be not more than six months old;
- (f) details of the price for which the property was acquired or the value of the consideration and the terms of any vesting, transfer or acquisition or proposed, including the issue of REIT securities and the basis on which the price paid or consideration provided was determined;
- (g) a copy of the structural engineer's report shall be included in the documents available for inspection;
- (h) details of current usage and permitted usage for each property and lettable area or other relevant metric;
- (i) if the real estate vested in or to be acquired by or transferred to the REIT is currently leased, the following details shall be required—
  - (i) existing and contracted tenancies including, area tenanted, number of leases, term for each lease, an expiry profile for leases as a whole, gross rental income and concentrations, details of rent reviews and occupancy rates for prior three years (*where applicable*),
  - (ii) historic vacancy factors,
  - (iii) the levels of rent relative to the current market,
  - (iv) revenues received for the past three years where available,
  - (v) rents in arrears or written off,
  - (vi) the operating costs including, maintenance,
  - (vii) provision of depreciation, amortization of assets or for replacement of capital, and
  - (viii) profit before and after tax.
- (j) where the transaction involves a sale and lease back or there is a lease to the promoter or other connected party then details of the basis of ascertaining the rental and an estimate from the principal valuer of the market rent;
- (k) if the real estate vested in or to be acquired by or transferred to the REIT is not currently leased is proposed to be leased then details of the estimated gross rental and terms and an estimate from the

principal valuer of the market rent and an estimate of the time required and fees, costs and expenses estimated to be incurred in order to lease the real estate; or

- (l) in the case of real estate being acquired or transferred:
  - (i) the stage of acquisition or transfer;
  - (ii) from whom it is being acquired or transferred;
  - (iii) conditions and terms of the acquisition or transfer including price or other consideration;
  - (iv) scheduled date for completion; and
  - (v) details of the valuations.

4. Where a REIT is a D-REIT or is an I-REIT that proposes to undertake development and construction activities the Prospectus or Information Memorandum shall include—

- (a) details of the real estate on which the development or construction is to be undertaken;
- (b) details of the price for which the property was acquired or the value of the consideration and the terms of any vesting, transfer or acquisition or proposed, including the issue of REIT securities and the basis on which the price paid or consideration provided was determined;
- (c) details of the project including intended usage of the real estate on completion and the property manager's strategy for marketing the real estate or acquiring tenants;
- (d) a detailed description of the development or construction to be undertaken and of any report or estimates by the project manager;
- (e) details of approvals and consents required and the time frame for obtaining;
- (f) a budget, work plan and time-frame to undertake the development and construction together with details of all consents and approval required and costings;

- (g) an assessment from the structural engineer and the project manager as appropriate as to whether or not it considers the budget and costings for the development and/or construction are reasonable; or
  - (h) an assessment by the REIT manager of the market to sell or lease up the real estate when completed together with any expert assessments of the market.
- 5. A table reflecting the objectives and classification of the REIT that sets out the key assumptions underlying any projections included in the Prospectus or information Memorandum and a sensitivity analysis of the impact on income, earnings, profits and distributions to implement the assumptions and shall include—
  - (a) failure to let up to assumed level within the scheduled time;
  - (b) failure to achieve assumed rents;
  - (c) cost over runs for development and construction;
  - (d) time overruns for development and construction;
  - (e) changes in interest rates;
  - (f) the impact of any financial structuring; and
  - (g) any other material factors.
- 6. Details of the valuations obtained in respect of the real estate and other assets vested in or proposed to be acquired by or transferred to the REIT including basis of valuation.
- 7. The date of each valuation and the basis of valuation.
- 8. Policy in relation to revaluations and requirements of the Act and these Regulations for revaluations.
- 9. Where the trust deed authorises the trustee of the REIT to invest in non-real estate assets detail the investments in which the trustee is authorised to invest, the investment strategy and trading policy that the REIT manager proposes to adopt and the timing of valuations and basis of valuation.

## **PART 8**

### **APPOINTMENT AND ROLE OF STRUCTURAL ENGINEER AND PROJECT MANAGER CERTIFIER**

1. Details of the structural engineer including details of experience, resources and key personnel.
2. Include a description of the structural engineer's role, duties, responsibilities and obligations.
3. Disclose any potentially conflicting interests or competing roles.
4. Details of the appointment of any project manager certifier including, details of experience, resources and key personnel.
5. Include a description of the project manager certifier's role, duties, responsibilities and obligations.
6. Disclose any potentially conflicting interests or competing roles.

## **PART 9**

### **THE ROLE OF THE PROMOTER OR ISSUER AND ONGOING RELATIONSHIP AND HOLDINGS OF REIT SECURITIES, INCLUDING LOCK-UP PERIODS**

1. Provide details of the promoter or issuer.
2. Include details of any property vested or to be transferred or acquired by the REIT and details of the price paid in cash or REIT securities or other consideration or of value attributed.
3. Include a summary of the requirements under the Act or these Regulations for the promoter to maintain an investment in REIT securities in the REIT.
4. Include details of the percentage and value of REIT securities held or to be issued to the promoter and obligations as regards retention and lock up periods.
5. Provide details of the ongoing relationship of the promoter or of persons connected with the promoter with the REIT and proposed roles, including any option or right of first refusal to acquire real estate assets.

6. Details of the promoter's capacity, if any, to fund overruns and to receive additional REIT securities as a consequence. Unless the promoter has undertaken to fund any cost overruns then it should be clearly stated in bold type that the promoter may but has no obligation to fund cost overruns.

## **PART 10**

### **CONNECTED PARTY TRANSACTIONS**

1. Include details of any existing relationships and potential conflict of interest situations together with the steps taken to address such conflicts or potential conflicts and any proposed connected party transactions including roles to be undertaken by connected persons, e.g. as REIT manager.
2. Detail the processes to be adopted to address potential conflicts of interest and in particular conflicts with connected persons.
3. Detail the rights of the REIT securities holders to vote on proposed connected person transactions.

## **PART 11**

### **KEY DATA AND MARKET**

1. Key information shall be included on the real estate market in which the REIT proposes to invest.
2. The data that is relevant will vary significantly depending on the sector of proposed investment and classification of the REIT and the activities in which it proposes to involve. Data might include but not be limited to, brief information on the following and references to—
  - (a) relevant details on supply and demand in the market for real estate in specified locations;
  - (b) price trends;
  - (c) Rental property supply and demand in specified locations;



- (d) rent trends;
- (e) impact of the economy on demand for real estate, real estate prices and rents;
- (f) key drivers of the income from the sector being invested in or on capital gains or profits from sale; and
- (g) Government policies and their impact.

## **PART 12**

### **DETAILS OF ANY FINANCIAL STRUCTURING INCORPORATED OR TO BE INCORPORATED IN THE SCHEME AND POTENTIAL IMPACT ON PERFORMANCE OF SCHEME AND FUTURE DISTRIBUTIONS**

Provide as required by the Act and these Regulations details of any financial structuring as required by regulation 37.

## **PART 13**

### **RISKS**

1. The Prospectus or Information Memorandum shall contain information on the risk factors relating to investment in REIT securities. The risks disclosed shall include the risks—
  - (a) generally of investment in REIT securities;
  - (b) associated with the particular REIT given its structure, classification and objectives and strategy; and
  - (c) specifically associated with the investment portfolio or assets of this REIT and its objectives and proposed activities.
2. Risks, where possible, shall be listed based on potential severity and impact.
3. Where appropriate and possible a sensitivity table or other method for quantifying the risk and its potential impact shall be included.
4. For major risks any mitigating factors or risk management mechanisms employed or proposed by the REIT manager shall be disclosed.

5. Disclaimers included shall not be so wide as to cause the disclosure of the risks to be of little or no benefit to investors in REIT securities.

## **PART 14**

### **TRUSTEE'S POWER TO BORROW ON BEHALF OF THE TRUST AND CHARGE OR PLEDGE ASSETS AS SECURITY**

Provide details of:

- (a) The trustee's powers under the trust deed to borrow or raise finance for the purposes of the trust and to provide security for such borrowing by charging or pledging the assets of the REIT.
- (b) Limits contained in the Act or these Regulations on the trustee's powers.
- (c) Circumstances, if any, in which REIT securities holder may be required to vote to approve a borrowing by the trustee.
- (d) The implications of the trustee exceeding the limits in the Act or these Regulations or the limits set out in the trust deed.

## **PART 15**

### **EXPERTS OPINIONS AND LEGAL OPINIONS**

1. The Prospectus or Information Memorandum shall include a summary of any opinions obtained from experts or upon which the promoter or issuer has placed reliance for statements made in the Prospectus or Information Memorandum and the reports shall be included in the list of documents available for inspection.
2. Details of the legal opinion obtained by the trustee in relation to the title of any real estate asset vested in or to be acquired by or transferred to the REIT, compliance with the Act and these Regulations and in respect of any other matters required by the trust deed, the scheme documents, the Act or these Regulations.
3. Where a Prospectus or Information Memorandum contains a summary of or excerpt from an expert's report, the complete report of which is

included as an additional document available for inspection then there shall also be included a statement from that expert stating whether or not the report was prepared for inclusion in the Prospectus or Information Memorandum and whether or not the summary or excerpt accurately reflects their opinion and is relevant in the context in which it is used.

4. All experts' reports shall be signed by the expert and dated not more than ninety days prior to the date of publication of the Prospectus or Information Memorandum. Reports may be updated by the expert confirming that the opinion is unchanged and is still relevant.
5. Experts' opinions that include disclaimers that are so wide that the report is of little or no value to potential investors in REIT securities may be misleading and shall not be included.

## **PART 16**

### **FEES, COSTS AND EXPENSES**

1. Include details of all fees, costs and expenses payable in respect of the issue or offer of the REIT securities including underwriting fees and amounts reimbursable to any party, the manner of calculation together with details of who is responsible for the payment of such.
2. Provide details of all fees, costs and expenses payable by the trustee out of the assets of the trust and the manner of their calculation.
3. Include a statement of the estimated MER of the REIT.
4. Provide details of the limits imposed by the Act or Regulations on the charging of fees or the reimbursement of expenses.

## **PART 17**

### **DISTRIBUTION POLICY AND FACTORS DETERMINING DISTRIBUTION**

1. Provide details of the distribution policy set out in the trust deed.
2. Include a statement of the requirements under the Act or these Regulations to make distributions and of the impact of the failure to make minimum distributions.

3. Detail the powers and obligations of the REIT manager and the trustee with respect to distributions and any requirements for a vote of REIT securities holders.

## **PART 18**

### **TAXATION, DISCRETION AS REGARDS DISTRIBUTIONS AND IMPLICATIONS FOR TAXATION TREATMENT OF THE REIT AND DISTRIBUTIONS**

1. Provide details of the taxation treatment of the income, trading profit, capital gains and profit of the REIT and of the taxation of distributions including withholding tax obligations.
2. Provide details of any expert opinion obtained and addressed to the trustee for the benefit of the investors in REIT securities to support the conclusions set out in paragraph 1, above. The full opinion shall be included in list of additional documents available for inspection.
3. Provide details of the circumstances in which such taxation treatment could vary and in particular of the implications of failure to comply with specific provisions of the Act or these Regulations.

## **PART 19**

### **TRANSFERABILITY OF REIT SECURITIES, LISTING AND REDEMPTION**

Given the nature of the assets in which REITs invest the ability of the REIT manager to provide for redemptions is in most circumstances extremely limited and redemption may not be available or only available after the happening of specified trigger events.

1. Include details of any restriction on the transferability of the REIT securities.
2. Include details of the intention to list the REIT securities on a securities exchange and the persons who can trade on such an exchange.
3. Where there is no right to request redemption then this fact should also be stated in bold type and include a caution that the REIT securities' holders are not entitled to seek redemption.

4. Where redemption is provided for then include an explanation of how the REIT manager and the trustee are to fund redemptions and their powers to limit or freeze redemptions.
5. Where there is an ability to seek redemption then the trust deed should clearly set out the—
  - (a) terms on which redemption can be sought including, deferral periods, preconditions or trigger events, number, notice periods and redemption dates;
  - (b) process and procedure for seeking redemption;
  - (c) manner in which units are to be valued and the redemption price is to be calculated; and
  - (d) the ability of the trustee or the REIT manager to limit, suspend or cancel redemptions.
6. Where REIT securities are not to be listed then a prominent warning in bold type-face shall be included warning that the investment has limited, if any, liquidity and drawing attention to the rights to redemption, if any, or the lack thereof.

## **PART 20**

### **ACCOUNTS, PRO FORMA ACCOUNTS AND FINANCIAL STATEMENTS**

1. All pro forma accounts and the pro forma financial statements included shall be identified as being pro forma only and to be clearly labelled in bold type-face as having been included for illustrative purposes only and being based on a number of assumptions which may or may not eventuate.
2. A statement shall be included that the pro forma accounts and balance sheet have been prepared in accordance with IFRS.
3. Where forecasts are included based on assumptions then in addition to the assumptions being clearly identified and highlighted a sensitivity table or tables shall be included to indicate the implications of changes in the key assumptions or variables.

4. Any accounts or financial statements of the trustee or REIT manager should be clearly labelled as such and a statement included in bold type that the investor in REIT securities only has recourse to the assets of the real estate investment trust and not to the assets of the trustee or the REIT manager.

**A. For newly formed I-REIT with income producing properties**

1. Where a newly formed REIT has property vested in it or real estate assets have or are to be acquired or transferred to the REIT which assets have had an income stream then the Prospectus or Information Memorandum shall include by way of illustration only pro forma financial statements prepared on the assumption that the REIT had been in existence for the three years immediately preceding the date of the Prospectus or Information Memorandum or if the real estate assets had not been income producing for three years then for such lesser period.
2. The pro forma financial statements shall-
  - (a) be clearly identified as pro forma accounts prepared for illustrative purposes only;
  - (b) be prepared based on IFRS and show the income and all outgoings and expenses of the real estate assets including, maintenance, capital works and depreciation or capital allowances or permissible allocations to reserves or sinking funds for the replacement of capital assets and include estimates for fees and expenses that would have been payable for, for example, trustee's fees, REIT manager's fees, valuation costs and audit costs if the real estate assets had been assets of the REIT during that period. Allowance shall also be made for any costs of the establishment of the REIT and for acquisition costs if these are to be borne by the REIT; and
  - (c) clearly identify variations to take account of REIT specific fees, charges, expenses and other adjustments.
3. Provision shall be made in the pro forma accounts for the payment of the minimum distribution provided for in the Act or these Regulations.

4. Where the I-REIT proposes to undertake any development or construction activities within the first year after the date of the Prospectus or Information Memorandum then the impact of such activities on returns shall be illustrated through adjustments made to the last year of the pro forma accounts. These adjustments and the underlying assumptions on which they are based shall be clearly identified.
5. The objective of the pro forma accounts is to illustrate the returns that would have been received if the real estate had been assets of the REIT for that period and an analysis of the performance of the assets shall be included.

**B. For a newly formed I-REIT with real estate assets a substantial proportion of which have not previously been income producing**

1. Pro forma accounts, for illustrative purposes only, based on forecasts for the next year of operation, shall be included.
2. These shall be based on the reasonable expectations of the promoter and REIT manager and there shall be clear identification and differentiation of-
  - (a) known information based, for example, on leases entered into, and existing contracts and finance charges;
  - (b) §assumed income and costs charges, expenditure and provisions for e.g. depreciation etc. any proposed development and construction costs and expenses including allowances for over runs, and
  - (c) the underlying assumptions on which income or expenses are based shall be clearly stated.
3. Provision shall be made in the pro forma accounts for the payment of the minimum distribution provided for in the Act or these Regulations.

**C. For a newly formed D-REIT with real estate assets in a development and construction phase and a substantial proportion of which have not previously been income producing**

1. Include pro forma accounts, for illustrative purposes only, based on forecasts for the next full year of operation.
2. These shall be based on the contracted work, known liabilities and commitments, budgets and work plans for the period and the reasonable expectations of the promoter and REIT manager and there shall be clear identification and differentiation of-
  - (a) known information based, for example, on leases entered into, and existing contracts and finance charges;
  - (b) assumed development and construction costs and expenses including allowances for over runs, any income and costs charges, expenditure and provisions for e.g. depreciation; and
  - (c) the underlying assumptions on which costs income or expenses are based shall be clearly stated.

**D. For a D-REIT converting to an I-REIT or a restricted I-REIT which proposes to become unrestricted**

1. Include, for illustrative purposes only, a pro forma accounts based on the three years prior audited financial statements prepared by the trustee in respect of the REIT, adjusted only to take account of the additional costs, if any, that would have been incurred if the REIT had been an I-REIT or an unrestricted I-REIT for the period.
2. Provision shall be made in the pro forma accounts for the payment of the minimum distribution, if any, provided for in the Act or these Regulations.

**E. Pro forma Financial Statements for all classifications of REITs**

1. Include, for illustrative purposes only, a pro forma balance sheet as at the projected date of the closing of the issue or offer and adjusted for, as appropriate;



- (a) vesting of assets and proposed contracted acquisitions;
  - (b) proceeds from the issue of REIT securities and proposed use of funds;
  - (c) borrowings contracted or proposed to be entered into on closing;
  - (d) contracted development and construction activities;
  - (e) other contractual obligations;
  - (f) requirements for minimum distributions, if any, provided for in the Act or Regulations; and
  - (g) costs of acquisitions and the issue.
2. All adjustments and underlying assumptions shall be clearly identified and highlighted.
3. The pro forma balance sheet shall be accompanied by a reporting accountant's or auditor's letter confirming that it has been prepared as a pro forma balance sheet in accordance with IFRS and the accounting policies recommended by the REIT manager and adopted by the trustee on behalf of the REIT.

## **PART 21**

### **MEETINGS, REPORTS, ACCOUNTS AND REIT SECURITIES HOLDER'S RIGHTS**

1. The Prospectus or Information Memorandum shall include in summary form details of:
- (a) requirements for meetings and the rights of REIT securities holders to require the calling of meetings;
  - (b) provisions as to notice required for meetings and procedures and voting and the voting level required to pass ordinary and special resolutions;
  - (c) list those matters which require a special resolution;
  - (d) list those matters which are required to be put to a vote of REIT securities holders;
  - (e) REIT securities holder's right to receive reports and financial statements; and
  - (f) include a brief statement of the key rights of REIT securities holders.
2. Where any matters required to be disclosed in this Part have been included in another Part then they may be addressed in this part by the inclusion of a cross-reference.

**PART 22**  
**ADDITIONAL INFORMATION**

1. The Prospectus or Information Memorandum shall disclose any additional information relevant to a potential investor in REIT securities where the failure to include could constitute an omission or lead to information contained being misleading.
2. In particular, there shall be full disclosure of all material contracts (*including contracts not reduced to writing*).

**PART 23**  
**CONSENTS**

1. The Prospectus or Information Memorandum shall include a statement of consent from all relevant parties and from all parties named in the document consent to their being named in the document in the form and context in which it appears together with the statement that they have not subsequently withdrawn their consent.
2. Signed copies of consents, dated not more than thirty days prior to the date of publication of the Prospectus or Information Memorandum shall be included in the list of documents available for inspection.

**PART 24**  
**DOCUMENTS AND ADDITIONAL DOCUMENTS AVAILABLE FOR INSPECTION**

1. The Prospectus or Information Memorandum shall contain a statement that for a period of not less than three years from the date of the approval of the Prospectus or Information Memorandum by the Authority copies of the documents listed in the Prospectus or Information Memorandum shall be available for inspection at the registered office of the trustee or such other address as the Authority may approve and subsequently shall be made available by the trustee for inspection for a period of eight years from the date of approval of the Prospectus on the giving of fourteen days' notice in writing to the trustee.

2. Documents shall include-

- (a) the trust deed and any supplemental deeds;
- (b) each contract disclosed in the Prospectus or Information Memorandum (*including agreements with the REIT manager or any loan or funding agreements*), and in the case of a contract not reduced to writing, a memorandum setting out the parties, date and full particulars;
- (c) all valuation reports obtained in respect of the real estate assets;
- (d) structural engineer reports;
- (e) any reports by any project manager certifier;
- (f) legal opinions;
- (g) expert reports;
- (h) where applicable the audited annual and semi-annual or interim reports and financial statements for the trust for whichever is the later of the three years prior to the date of approval of the Prospectus or Information Memorandum or from the date of formation of the trust;
- (i) audited financial statements for the trustee and REIT manager for whichever is the later of the three years prior to the date of approval of the Prospectus or Information Memorandum or from the date of formation of the entity;
- (j) all reports, letters, opinions or other documents and statements by any expert, any part of which is extracted in or summarized in or referred to in the Prospectus or Information Memorandum and where an extract or summary is included the corresponding full report shall be made available for inspection;
- (k) signed and dated consents given by any experts and copies of any withdrawals of consents;
- (l) underwriting agreements;
- (m) any letters with any parties whether enforceable or not; and
- (n) copies of any court orders or other documents relating to court actions commenced against the trustee or the REIT manager in the previous three years relating respectively, to the conduct of their duties as a trustee or REIT manager.

## **PART 25**

### **ADDITIONAL MATERIAL TO BE INCLUDED WHERE A D-REIT IS CONVERTING TO AN I-REIT**

Where a Prospectus or Information Memorandum is being issued as part of the process of conversion of a D-REIT to an I-REIT then the Prospectus or Information Memorandum shall include-

- (a) details of amendments or amendments proposed to be made to the trust deed;
- (b) all information that would have been required to be included in the Prospectus or Information Memorandum for an I-REIT including current experts' reports;
- (c) details of the audited annual and semi-annual or interim reports and financial statements for the trust for whichever is the later of, the three years prior to the date of the Prospectus or Information Memorandum, or from the date of approval of the D-REIT;
- (d) valuation reports for the later of the three years prior to the date of the Prospectus or Information Memorandum or from the date of approval of the D-REIT;
- (e) compliance reports for the later of the three years prior to the date of the Prospectus or Information Memorandum or from the date of approval of the D-REIT;
- (f) details of amendments proposed to the trust deed;
- (g) details of all distributions made since the establishment of the D-REIT, the percentage distributed and the source of the distribution;
- (h) details of the taxation treatment of the D-REIT and of distributions made;
- (i) details of the periodic trustee compliance reports for the previous three years;
- (j) details of any legal action or proceeding commenced against or by the trustee or the REIT manager in the previous three years or which is current or has not been settled; and
- (k) details of any action taken by the Authority or any other government body or authority in respect of the scheme, the trustee or the REIT manager or any auditor, valuer or structural engineer of the REIT.

## **PART 26**

### **ADDITIONAL INFORMATION TO BE INCLUDED WHERE A RESTRICTED I-REIT IS CONVERTING INTO AN UNRESTRICTED I-REIT TO BE LISTED AND NOT SUBJECT TO RESTRICTIONS**

Where a Prospectus or Information Memorandum is being issued as part of the process of conversion of a restricted I-REIT to a listed unrestricted I-REIT not subject to restrictions then the Prospectus shall include, all information that would have been required to be included in the Prospectus for an I-REIT with unrestricted listing including-

- (a) current experts reports;
- (b) details of the amendments made or to be made to the trust deed;
- (c) details of the audited annual and semi-annual or interim reports and financial statements for the trust for whichever is the later of, the three years prior to the date of the Prospectus or Information Memorandum, or from the date of the original approval as an I-REIT;
- (d) valuation reports for the later of the three years prior to the date of the Prospectus or Information Memorandum or from the date of the original approval as an I-REIT;
- (e) compliance reports for the later of the three years prior to the date of the Prospectus or Information Memorandum or from the date of the original approval as an I-REIT;
- (f) details of amendments proposed to the trust deed;
- (g) details of all distributions made since the establishment of the I-REIT, the percentage distributed and the source of the distribution;
- (h) details of the taxation treatment of the I-REIT and of distributions made;
- (i) details of the periodic trustee compliance reports for the previous three years;
- (j) details of any legal action or proceeding commenced against or by the trustee or the REIT manager in the previous three years or which is current or has not been settled; and
- (k) details of any action taken by the Authority or any other government body or authority in respect of the scheme, the trustee or the REIT manager or any auditor, valuer or structural engineer of the REIT

## **PART 27**

### **APPLICATION FOR REIT SECURITIES AND APPLICATION FORM**

1. The Prospectus or Information Memorandum shall set out details on how to apply for REIT securities and to complete the application and include an Application Form.
2. The Prospectus or Information Memorandum shall specify the minimum number and value of REIT securities that can be applied for and detail the process to determine allocation and the discretions, if any, vested in the issuer which shall include-
  - (a) to determine the number of REIT securities to be issued or allocated to any applicant;
  - (b) to extend the closing date for the issue or offer; or
  - (c) to withdraw the offer in the event that a minimum subscription is not reached.
3. Where the Information Memorandum relates to a D-REIT or an issue or offer in respect of a restricted I-REIT then both the Information Memorandum and the Application Form shall set out the requirements for an investor to qualify as a professional investor to whom the REIT securities may be issued or offered and contain a warning that the REIT securities can only be transferred to another qualified investor.
4. The Prospectus or an Information Memorandum shall state that applications for REIT securities can only be made on the Application Form attached to the Prospectus or Information Memorandum.
5. An Information Memorandum shall comply with the Act and these Regulations and any other laws of Uganda relating to the issue or offer of securities to professional investors or to any other person.

**THE COLLECTIVE INVESTMENT SCHEMES (REAL ESTATE  
INVESTMENT TRUSTS) REGULATIONS, 2017**

**CONTENTS OF SEMI-ANNUAL REPORT, ANNUAL REPORT AND  
FINANCIAL STATEMENTS**

**1. Minimum standards**

The semi-annual and annual report and financial statements for a REIT scheme shall include all the information required by this Schedule; comply with the provisions of the Act and these Regulations and of any Approved Securities Exchange. The financial statements shall include, as a minimum, a Statement of Financial Position (Balance Sheet), a Statement of Comprehensive Income (Profit and Loss), a Statement in Change in Equity and a Cash Flow Statement (Source and Use of Funds) as well as a description of the accounting policies used and the relevant notes to the financial statements and a report on other legal requirements

It is intended that the requirements of this Schedule represent the minimum content required to be included in the reports of a real estate investment trust scheme. Compliance with the schedule does not remove or reduce the obligations of the trustee or the REIT manager, auditor or any other party under the laws of Uganda.

Information may be included by way of tables, charts or graphs where this assists in understanding.

Only photographs of assets actually owned by the REIT as at the date of the report may be included and shall provide a fair representation of the state of repair or stage of completion of the asset.

Where the reports of any experts, including valuers, or summaries of their reports are included then the report shall also contain a letter of consent signed by the expert to the inclusion of the report or the summary in the report.

References in this Schedule to a REIT, D-REIT or I-REIT shall where the context permits also include a reference to an investee company or investee trust of the REIT, D-REIT or I-REIT as the case may be and the requirement to disclose or include information shall extend to the investee company or investee trust.

## **2. Compliance with accounting standards**

In addition to meeting the requirements of this Schedule all reports and financial statements shall be prepared under and comply with the International Financial Reporting Standards and the International Auditing Standards or such other the accounting standards and auditing standards as are applying in Uganda from time to time.

## **3. General real estate investment trust scheme information**

The report shall include:

- (a) a table of contents and glossary of terms used in the reports.
- (b) name of the REIT scheme.
- (c) the date of authorisation of the scheme, the duration of the REIT and the type of scheme.
- (d) if the fund is an open fund, include details of any restriction on applications for redemption.
- (e) date of any conversion from a D-REIT to an I-REIT or from a restricted I-REIT to an unrestricted I-REIT or conversion from an open to a closed fund or closed to open.
- (f) statement of the number and type of units outstanding as at the balance date of the report and of the balance date for the financial statements.
- (g) whether the scheme is listed and details of the listing including, if trading is restricted.
- (h) a statement of any restriction on the transferability of units.
- (i) the scheme's objectives as at the balance date of the report and any changes since the date of the last report.
- (j) structure diagram of the REIT which summarises the parties, relationship, roles of parties and material cash flows.
- (k) brief summary of the real estate assets (including development and construction projects) and other assets and purchase or sales contracts and of any material development or construction contracts entered into in the period covered by the report.
- (l) a statement as to whether or not the scheme has complied with regulation 66 or regulation 78 as regards the making completion of investment in at least one real estate asset within one hundred and eighty days and if not the action taken in accordance with these Regulations.



- (m) a brief statement of the borrowings and financial arrangements entered into by the trustee on behalf of the scheme entered into in the period covered by the report and the outstanding as at the date of the report, together with a calculation made in accordance with regulation 72 or 82 on the gearing as at the date of the report.
- (n) table summarising distributions made for the lesser of 5 years or since the establishment of the scheme, the dates of such distributions and for each distribution the percentage of net, after tax, income distributed as provided for in these Regulations. The following is provided *by way of example* but will need to be adapted to the type of REIT, its assets and sources of income and the requirements under taxation legislation or of the Ugandan Revenue Authority, if any, from time-to-time.

SOURCES OF DISTRIBUTION**	20XX Ugx	20XX Ugx
Rental income		
For D-REIT or I-REIT converted from D-REIT Interest or similar income from provision of finance to purchases of developed real estate etc		
Dividend income, including from wholly owned & controlled company		
Distributions from other REIT scheme/s or collective investment schemes by source for each scheme		
Realised capital gains (less losses) sales of real estate		
Other realized capital gains (less losses)		
Other income		
SUBTOTAL		
LESS**		
Expenses & permitted deductions or transfers		
Taxation		
TOTAL POTENTIAL DISTRIBUTABLE INCOME		
Distribution per unit in Ugx		
Distribution as a % and compliance with Regulation 73, if an I-REIT		
** In addition items may be included to reflect the particular REIT's situation or to reflect e.g. unrealized losses brought forward or distributions made from previous year's realized gains or unrealized gains.		

If the REIT is listed a graph which plots the unit price on at least a monthly basis for the lesser of the previous 5 years or the period since first listing.

#### **4. Details of parties**

(1) The report shall include names, addresses, registered office, telephone and facsimile number of persons including partnerships which have provided services during the relevant period and prior financial year and the dates of appointment, retirement, resignation or replacement of those persons, including-

- (a) the promoter;
- (b) the trustee and compliance officer;
- (c) the registrar;
- (d) the REIT manager, compliance officer and the directors of the REIT manager during the period covered by the report and shall include-
  - (i) their qualifications and identifying the independent directors and setting out dates of appointment and resignation, if applicable; and
  - (ii) the details of any committees established by the Board and their functions;
- (e) the property manager, if any;
- (f) the project manager certifier, if any;
- (g) the structural engineer;
- (h) the valuer;
- (i) legal advisers;
- (j) auditors, and
- (k) other experts.

(2) Concise details of any relationship or transaction which results in any parties being connected persons for the purposes of the Act or these Regulations.

#### **5. Units of REIT securities issued, outstanding and holdings**

(1) The report shall include -

- (a) details of number, price at which units were issued or redeemed and the total value of units of REIT securities issued or redeemed during the period covered by the report.
- (b) classes and number of units by class outstanding as at the balance date and the date of the report.

- (c) a table with a breakdown of REIT securities holdings, by class, as follows-

<b>No. of REIT securities holders</b>	<b>Level of holding</b>	<b>Total holdings</b>	<b>%</b>
	Less than 100		
	100 to 1,000		
	1,001 to 10,000		
	10,001 to 100,000		
	100,001 to less than 5% of number of units on issue as at the balance date of the financial statements included in the report		
	Names of REIT securities holders and connected persons with holdings of 5% and above of number of units on issue as at the balance date of the financial statements included in the report		
Promoter's holdings as per regulations 75 and 85			
Free float			
As required by regulations 28 and 30			

(2) Where any units have been redeemed during the period covered by the report then provide by month details of the number of units redeemed by bands, and the price applicable.

## **6. Reit manager's report**

The report shall include:

- (a) The report shall include a concise statement explaining the REIT manager's responsibility for preparing the report and the financial statements and include a statement signed by the Chairperson and an independent director of the REIT manager stating that the reports and financial statements have been prepared in accordance with the accounting standards currently applying in Uganda and comply with the Act and these Regulations and where the REIT is listed with the requirements of the Approved Securities Exchange.

- (b) Where the report is an annual report and the audited results for the financial year differ by more than 10% from any profit estimate, forecast or projection previously made or issued in respect of the scheme for the relevant period the REIT manager should include an explanation for the difference.

## **7. The Assets and Performance of the Real Estate Investment Trust Scheme**

The report shall contain a report by the REIT manager on the operational aspects of the scheme and in particular should provide as regards-

### **A. Assets**

1. Breakup of eligible assets by class (e.g. real estate, development and construction, cash, investment in wholly owned and controlled, companies, investee companies and investee trusts, investment in other securities) and shall include-
  - (a) the most recent valuations for each class of asset and date of valuation;
  - (b) the details of any assets that do not qualify as eligible assets under the Act or these Regulations;
  - (c) where appropriate, tables, graphs or charts illustrating change over time and trends; and
  - (d) a table, dependent on the type of REIT, which includes the following information.

I-REIT eligible investments (assets) regulation 65	Regulation and maximum limit %	Regulation and minimum limit %	limit in scheme document %	% as at balance date	Highest % level during reporting period	Date of most recent valuation/s and reference to page of report detailing valuation
All direct eligible real estate (a) Freehold (b) Leasehold						

All indirect eligible real estate (a) Freehold held through investee companies or investee trusts (b) Leasehold held through investee companies or investee trusts						
Income producing real estate regulation 65(5) Minimum of 75% of TAV within 2 years of authorisation						
Land and cost of construction regulation 70 Maximum 15% TAV						
Vacant Land at acquisition cost & real estate not producing commercial return Regulation 70 Maximum 10% of TVA						
Cash, deposits, bonds and money market instruments Regulation 65(9) Maximum 5% to single issuer, institution or members of group						
Wholly owned and controlled company which conducts real estate activities Regulation 65(10) Maximum of 10% TAV with REIT securities holder consent						

Income producing assets including listed shares in Ugandan property companies and units in Ugandan I-REITS. Regulation 68(2) Maximum 10% of value of investment and TAV at time of acquisition						
For an I-REIT that has converted from a D-REIT Mortgages or other secured loans Etc.; authorised under Regulation 13 provided to purchasers of real estate developed or constructed Regulation 13						
Other assets (eligible) include description						
Other assets (not eligible) include description						

<i>D-REIT Eligible Investments (Assets) Regulation 76</i>	<i>Regulation and limit %</i>	<i>Limit % in scheme document</i>	<i>Level % as at financial statement balance date</i>	<i>Highest % level during reporting period</i>	<i>Date of Most recent valuation/ s and reference to page of report detailing valuation</i>
All direct eligible real estate (Regulation 3)					
(a) Freehold (b) Leasehold					
All indirect eligible real estate (Regulation 3) (a) Freehold held through investee companies or investee trusts (b) Leasehold held through investee companies or investee trusts					
Development & construction projects Regulation 77(4) within one year of date of authorisation minimum of 30% TAV in this or income producing or a combination					
Mortgages or other secured loans etc.; authorised under Regulation 14 provided to purchasers of real estate developed or constructed					
Vacant Land					
Cash, deposits, bonds and money market instruments					
Regulation 77(8) Maximum 5% to single issuer, institution or members of group					

Wholly owned and controlled company conducting real estate activities. Regulation 77(9) Maximum of 10% TAV with REIT securities holder consent					
Income producing assets including shares in Ugandan property companies and units in Ugandan REITS. Regulation 79(3) Maximum 10% of value of investment and TAV at time of acquisition					
Other assets (eligible) include description					
Other assets (not eligible) include description					

2. Concise details of each real estate asset owned or contracted for purchase or sale, and shall include—
- (a) name and address of each real estate asset and whether or not in the course of development or construction;
  - (b) date of acquisition, acquisition price and cost of any material renovations of redevelopments (not in the nature of ongoing maintenance and replacement of capital plant or equipment), most recent valuation and date of valuation;
  - (c) description, property and type and age of each real estate asset;
  - (d) title details and details of encumbrances or any limits or conditions on the title;
  - (e) details of any competing claims made in respect of any title or real estate asset;
  - (f) if it is leasehold, the tenure of leasehold, remaining term, rental or other fee payable and remediation terms on exit, rights, if any, to purchase or seek new term on expiry and conditions, conditions on transfer of lease;



- (g) net lettable area or other determinant of income (e.g. acres for plantation or forest, tons processed, passengers or landings) of, existing use, occupancy rates over time, historic let up (vacancy) period and number of parking spaces of other relevant assets;
  - (h) brief particulars of tenancies or other usage rights (e.g. hotel number of occupied room nights and average room rate), major tenants and areas occupied (which may be by band where multiple small tenancies), tenancy/lease periods, average lease term, lease up incentives, etc. which in the case of multiple small tenancies may also be in bands;
  - (i) tables or charts which illustrate tenancy expiry pattern for all existing leases and historic rental income trends and projected income based on current leases; and
  - (j) the date of acquisition and price, cost of any material improvements, construction of development works and latest valuation of the property including the date of valuation and name of the valuers and the net book value of the property.
3. Where there have been acquisitions or disposals during the period—
- (a) identity of the seller or purchaser;
  - (b) details of the property acquired as per paragraph 1;
  - (c) for disposals, date of disposal, price of disposal, market value, date of latest valuation, name of valuers and profit or loss on disposal after taking into account improvements, development and construction; and
  - (d) the anticipated impact of the acquisition or disposal on earnings.
4. Where the acquisition or disposal transaction involves a connected person then in addition to the information required to be disclosed in paragraphs 1 and 2, the report shall also contain—
- (a) details of the relationship giving rise to the application of the connected person provisions; and
  - (b) where REIT securities holders' approval to the transactions was required to be obtained, the details of the date of meeting, resolution, attendees and votes cast.

5. Where the REIT has conducted any development or construction activities then also include details of -
  - (a) the development or construction including nature of development or construction;
  - (b) the original budget and work plan and costings for the development or construction including, details of approvals required;
  - (c) the progress to date against budget, work plan, costings and obtaining of approvals and details of any variations; and
  - (d) the impact of changes on performance, projected returns and on distributions which may include tables, graphs or charts, where appropriate, to illustrate trends.
6. Where the REIT has entered into any contractual arrangements to commence any development or construction activities within the six-month period after the balance sheet date, it shall include the details to the extent that they are available of—
  - (a) the development or construction proposed, including nature of development or construction;
  - (b) the total budget and proposed work plan, including scheduled completion date;
  - (c) the required approvals and status of obtaining of approvals; and
  - (d) the projected impact on projected returns and distributions.
7. Where a REIT is a D-REIT developing real estate for sale, in addition to meeting the requirements of paragraphs 1-4, the report shall also include details of the—
  - (a) the initial proposed marketing and projected sales schedule;
  - (b) profit and loss on sales;
  - (c) monthly holding costs of completed but unsold properties;
  - (d) where properties developed or constructed have been sold on a tenant purchase or other arrangement which involves the provision of finance to the purchaser or term payment then

provide details of the terms provided and the payments by the purchaser or tenant as against scheduled payments including levels of arrears, costs of arrears and action taken to correct the position; and

- (e) the impact of the tenant purchase arrangements, term payment or financing of purchases on performance, projected returns and on distributions, include tables, graphs or charts, where appropriate, to illustrate trends.
8. Include details of investment in any wholly owned and controlled company carrying out real estate related activities.
9. Details of other non-direct real estate assets—
- (a) type;
  - (b) date of acquisition;
  - (c) percentage of each asset class as a percentage of total assets;
  - (d) income or returns on each asset class;
  - (e) last valuation, valuer/s and date of valuation and basis of valuation; and
  - (f) where the asset consists of shares in a wholly owned and controlled company provide details of the company's business activities, assets, income and liabilities (including borrowings from any source) and of any loans, guarantees, indemnities or other support provided to the company.

## **B. Details of Valuations**

Summaries of the any valuations obtained, included updating of prior valuations, and should be included in the report together with a statement that copies of full valuation reports are available for inspection without any charge at the offices of the REIT manager and the hours in which reports may be inspected.

## **C. Performance of scheme**

The report shall include the following:

1. Information from the REIT manager relating to the performance of the scheme over the period covered, achievement of the scheme's objectives, the market outlook and key aspects or identified risks likely to impact on the future performance of the scheme and the capacity to fulfil the scheme's objectives.
2. Explanation of maintenance costs and major capital works undertaken in the period and comparison with scheduled or budgeted maintenance or capital works.
3. A comparative table covering at least the last 5 financial years or if established for less than 5 years then since establishment, or from authorisation of the scheme if shorter, showing for the end of each financial year or half year as appropriate:
  - (a) Total asset value (TAV);
  - (b) NAV ex distribution;
  - (c) NAV per unit ex distribution ;
  - (d) Highest and lowest NAV per unit ex distribution;
  - (e) The number of units outstanding;
  - (f) Distribution per unit (interim and final) and the date of distributions;
  - (g) Distributions relative to the requirements of the trust deed and minimum distribution provided for in the Act and Regulations;
  - (h) The distribution yield based on NAV and where the REIT is listed on the NSE the yield based on the value of a unit as at the close of trade on the last trading day of the period;
  - (i) The MER together with an explanation of any changes in the MER.
4. Average annual total return for the scheme measured over:
  - (a) one year, or since inception if shorter;
  - (b) three years, and
  - (c) five years.
5. Include details of any material litigation and potential impact.

6. Any events or circumstances which is likely to impact on the future performance (e.g. increase in outgoings, reduction in rents overall, increased competition for tenants, changes in regulations, end of significant tenancy and no certainty of replacement tenant to take over, requirement for refurbishment or unscheduled or unbudgeted maintenance or capital works, cost of development or construction or delay in completion, delay in achieving sales, increases or decreases in interest rates).
7. Include where appropriate a sensitivity table illustrating the impact on performance and potential distributions of changes in key variables.

**D. Use of proceeds of new issue**

Include a brief statement of the use of funds raised from a new issue of units. This usage report should be updated in subsequent reports.

**E. Connected party transactions**

Include:

- (a) Details of the transaction or relationship giving rise to the application of the connected person provisions.
- (b) Details, including value nature of service or goods provided etc; for all connected party transactions.
- (c) Where REIT securities holders approval to the transactions was required to be obtained then details of date of meeting, resolution, attendees and votes cast.

**F. Compliance with income tests under these Regulations or scheme documents**

Depending on the type of REIT and the provisions of the scheme documents include a summary of the requirements as regards income tests provided under regulation 69 or the scheme documents and:

- (a) whether the REIT is in compliance with the requirements.
- (b) the reasons for any non-compliance and the action taken to rectify the position.
- (c) the implications or potential implications for the REIT and REIT securities holders of non-compliance.

## G. Distributions

The report should include:

1. Statement as to requirements, policy or objectives included in the scheme documents, including updated statement, in relation to distribution policy.
2. Statement as to requirements of the scheme documents, the Act and these Regulations in relation to distributions.
  - (a) Whether the REIT is in compliance with the requirements;
  - (b) The reasons for non-compliance if applicable and the action taken to rectify the position, including action by the trustee and a vote of REIT securities holders; and
  - (c) The implications or potential implications for the scheme, the REIT and REIT securities holders of non-compliance.
3. Include a table setting out details of all distributions paid and declared distributions, date of distributions, source from which any distribution has, or declared distribution, is to be paid, and whether or not in respect of each period requirements of the Act or these Regulations or of any other law in relation to taxation treatment as a REIT have been met and *include by way of example subject to the divisions required to reflect the taxation treatment of distributions:*

SOURCES OF DISTRIBUTION**	20XX Ugx	20XX Ugx
Rental income		
For D-REIT or I-REIT converted from D-REIT Interest or similar income from provision of finance to purchases of developed real estate etc		
Dividend income, including from wholly owned and controlled company		
Distributions from other REIT scheme/s or collective investment schemes by source for each scheme		

Realised capital gains (less losses) sales of real estate		
Other realised capital gains (less losses)		
Other income		
<b>SUBTOTAL</b>		
<b>LESS**</b>		
Expenses and permitted deductions or transfers		
Taxation		
<b>TOTAL POTENTIAL DISTRIBUTABLE INCOME</b>		
Distribution per unit in Ugx		
Distribution as a % of net after tax income and compliance with Regulations)		
** In additional items may be included to reflect the particular REIT's situation and/or to reflect e.g. unrealized losses brought forward or distributions made from previous year's realized gains or unrealised gains.		

4. Details of date of any meeting, resolution, attendees and votes cast in relation to the level, if any, of distributions.

## **H. Borrowing levels and compliance with covenants**

The report should include:

1. Details of borrowings or other financing arrangements, maturity profile and average cost of funds together with a graph or chart illustrating the maturity profile and average cost of funds.
2. Summaries of financial covenants (e.g. debt service cover ratio) included in any loan or financing arrangement documentation together with cover ratios and include a table, graph or chart illustrating changes over time and trends.

3. A sensitivity table shall be included illustrating the impact of changes in key assumptions of inputs.
4. Details of any connected party transactions and:
  - (a) details of the transaction or relationship giving rise to the application of the connected person provisions.
  - (b) where REIT securities holders' approval to the transactions was required to be obtained then details of date of meeting, resolution, attendees and votes cast.
5. Details of the limits on borrowings etc; included in the Trust Deed and of compliance with these provisions and the limits on borrowing etc; imposed by the Act and Regulations over time. Details should include:
  - (a) whether the REIT is in compliance with the requirements.
  - (b) instances of non-compliance including, period of non-compliance.
  - (c) the reasons for non-compliance if applicable with scheme documents and Regulations and the action taken to rectify the position.
  - (d) approvals or consents obtained including details of date of meeting, resolution, attendees and votes cast.
  - (e) the implications or potential implications of non-compliance by the REIT and REIT securities holders.

**I. Sensitivity analysis and impact of any financial structuring**

1. Provide details of any measures adopted or proposed which would constitute financial structuring under the Regulations, the implications of the absence, removal or expiry of such on yield, cash flows, distribution or risk profile of the REIT and the assumptions underlying the calculations.
2. Include a sensitivity table.

**J. Notifications and compliance reports**

1. The REIT manager's report shall include details of:
  - (a) any matter arising during the period which has been, or should have been, notified to the Authority pursuant to the Regulations.



- (b) any failures by the REIT manager, trustee or any other party to comply with the provisions of the scheme documents, the Act or the Regulations and action taken to remedy the failure.
- (c) any action taken by the REIT manager or which the trustee was requested to take during the period to protect assets of the trust or the interests of REIT securities holders.
- (d) an update of any matters reported in prior periods and action taken to rectify.

2. The report may also include the REIT manager's comments on trustee's report, performance of the trustee or of any other person or other material matter.

## **K. Trustee's Report**

1. The trustee's report shall confirm all matters relating to the title particulars of real estate properties and other assets of the fund and include details of;
  - (a) any appointment of a secondary disposition trustee together with details of purpose of the appointment and of any documents executed by the secondary disposition trustee;
  - (b) any matter arising during the period which has been, or should have been, notified to the Authority pursuant to the Regulations;
  - (c) any failures by the trustee to comply with the provisions of the scheme documents, the Act or the Regulations and action taken to remedy the failure;
  - (d) any failures by the REIT manager or any other person to comply with the provisions of the scheme documents, the Act or the Regulations and action taken to remedy the failure;
  - (e) any action taken by the trustee during the period to protect assets of the trust or the interests of REIT securities holders; or
  - (f) meetings of REIT securities holders convened by the trustee, resolutions put and the outcome of voting.

2. The report shall contain a summary of the meetings of REIT securities holders called or held during the relevant period, a summary of the purpose of the meeting, resolutions put to the REIT securities holders and of attendees and votes cast.
3. The report shall state whether the trustee is of the opinion that the REIT manager has managed the scheme in accordance with the provisions of the scheme documents, the Act and these Regulations and if the trustee is of the opinion that the REIT manager has not done so then:
  - (a) identify the shortcomings of failures to comply;
  - (b) outline the impact of the shortcomings or failures, and
  - (c) detail the action that the trustee has taken to address the shortcomings and/or prevent reoccurrence.
4. The report may also include comments by the trustee on REIT manager's report, performance of the REIT manager or of any other person or other material matter.
5. The Trustee's Report should be signed by the trustee.

**L. Auditor's Report**

1. An annual report shall be accompanied by an auditor's report addressed to and for the benefit of the trustee in its capacity as the legal owner and trustee for the REIT securities holders and REIT securities holders as beneficial owners.
2. The report shall include:
  - (a) A compliance report as required by the Regulations.
  - (b) Calculations of percentages required by these Regulations together with a statement as to whether the limits set out in the Regulation have not been complied with throughout the reporting period and if not should include details of the non-compliance and whether the non-compliance has been rectified as at the balance sheet date or the date of the report which shall include—

- (i) the minimum number of REIT securities holders;
    - (ii) the minimum free float;
    - (iii) the minimum promoter investment and retention;
    - (iv) eligible investments;
    - (v) the minimum income generation;
    - (vi) the maximum gearing; and
    - (vii) the minimum distributions.
  - (c) verification of the MER calculation; and
  - (d) verification of the sources of distribution made to REIT securities holders.
3. The auditor's report shall include the auditor's opinion on the financial statements and be signed by the auditor. Where the auditor's report is qualified details of the qualification should be noted clearly and prominently in the report.

## **M Meetings of REIT securities holders**

The report shall contain a summary of the meetings of REIT securities holders called or held during the relevant period, a summary of the purpose of the meeting, resolutions put to the REIT securities holders and of attendees and votes cast.

## **N Financial statements**

1. The financial statements shall give a true and fair view of the financial position, financial performance and cash flows and be prepared in accordance with the Act, these Regulations, the law and accounting standards applying in Uganda from time-to-time.
2. A clear statement shall be included as to whether or not the financial statements are audited.
3. Where the financial statements are unaudited then there shall be a statement signed by the Directors of the REIT manager and the compliance officer stating that the financial statements have been prepared to give a true and fair view of the financial position,

financial performance and cash flows and be prepared in accordance with the Act, these Regulations, the law and accounting standards applying in Uganda from time-to-time.

4. The financial statements shall also include»—

1) Statement of Financial Position

- (a) NAV of the fund;
- (b) number of issued units by class if more than one;
- (c) NAV per unit (ex-distribution, where applicable);
- (d) net assets/liabilities attributable to REIT securities holders;
- (e) NAV at book value of each unit as at the Statement of Financial Position date, and
- (f) if not included in the Statement of Financial Position then, by way of Notes, the carrying amounts of investments, as applicable, should be categorised as follows-
  - (i) real estate, with break up by class (e.g. housing, office, industrial Etc);
  - (ii) real-estate related assets;
  - (iii) development and construction assets;
  - (iv) non real estate assets;
  - (v) other real estate investment trusts;
  - (vi) cash, deposits, fixed income and other debt securities;
  - (vii) any other investments with material items disclosed separately, and the total eligible investments and eligible investments as a percentage of total assets as at the Statement of Financial Position date.
- (g) Liabilities should include details of contingencies including construction contracts, acquisition contracts and hedging arrangements or derivatives.

- (h) If not included in the Statement of Financial Position then, by way of Notes, details of borrowings or other financing arrangements including:
  - (i) total borrowings or financing arrangements as at the Statement of Financial Position date as a percentage of total asset value;
  - (ii) borrowings of any wholly owned or controlled company, and
  - (iii) any guaranteed borrowings or financing arrangements.

2) Statement of Comprehensive Income

- (a) fees, charges, reimbursements and expenses paid to the REIT manager or any property manager appointed by the REIT manager, with each type of charge shown separately;
- (b) fees, charges, reimbursements and expenses paid to the trustee with each type of charge shown separately;
- (c) fees, charges, reimbursements and expenses paid to the property manager certifier with each type of charge shown separately;
- (d) fees, charges, reimbursements and expenses paid to the structural engineer with each type of charge shown separately;
- (e) fees, charges, reimbursements and expenses paid to the valuers with each type of charge shown separately;
- (f) a calculation of MER and in the case of audited financial statements the auditor's verification of the calculation;
- (g) sources and nature of income;
- (h) for I-REITs, the percentage of income for the financial year from rent or income streams of a similar nature calculated as provided for in the Regulations;
- (i) total amount available for distribution and distribution per unit, interim and final;
- (j) net income after tax to be shown separately as to realized and unrealised income.

3) Statement of changes in fund balance.

4) Statement of cash flows.

5) Notes to Financial Statements

If not already shown then, as Notes:

- (i) accounting policy adopted in respect of the trust as an accounting entity;
- (ii) income basis adopted;
- (iii) movements in number of units on issue including, units issued, cancelled or redeemed, if applicable by class or type;
- (iv) all costs of or associated with redemption of units or issuance of new units and of listing;
- (v) number of units and value of units held, legally or beneficially, by the promoter, the REIT manager and connected parties and movements in holdings during the financial year;
- (vi) details of taxes paid or payable by the REIT and a breakdown;
- (vii) details of any taxes paid by the REIT as a consequence of not compliance with the Act or these Regulations; and
- (viii) details of taxes withheld in respect of distributions paid or payable.

**THE COLLECTIVE INVESTMENT SCHEMES  
(REAL ESTATE INVESTMENT TRUSTS) REGULATIONS, 2017**

**APPLICATION FOR A LICENCE/ RENEWAL OF LICENCE TO  
CONDUCT THE BUSINESS OF A REIT MANAGER OR REIT  
TRUSTEE**

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Application is made for a REIT Manager/REIT Trustee (tick as appropriate) licence/*renewal of licence (delete where inapplicable)* under the Collective Investment Schemes (Real Estate Investment Trusts) Regulations, 2016 and the following statements are made in respect thereof:

Note—

If space is insufficient to provide details, please attach annexure(s). Any annexure(s) should be identified as such and signed by the signatory of this application.

*Information provided should be as at the date of the application or renewal.*

1. Name of company ..... Limited
2. Registered office .....
3. Date of incorporation .....
4. Address .....
5. E-mail .....
6. Location, address and telephone number of principal office.....  
.....
7. Location, address and telephone number of branch offices .....  
.....  
.....

8. Details of capital structure:
- (a) Nominal capital (Ug.shs.) .....
- (b) Number of shares .....
- (c) Paid-up capital (Ug.shs) .....

9. Shareholders (please attach a list)

<i>Name</i>	<i>Address &amp; telephone number</i>	<i>Number of shares Held</i>
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10. (a) Directors (please attach a list)

<i>Name</i>	<i>Identity Card/ Passport number</i>	<i>Date of Appointment</i>	<i>Date of birth</i>	<i>Permanent address &amp; telephone number</i>	<i>Academic Or Professional qualification</i>	<i>Number of shares held in the company</i>
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(b) Secretary

Name.....

Address .....

(c) Chief executive and other key personnel

<i>Name</i>	<i>Identity Card/ Passport number</i>	<i>Date of Appointment</i>	<i>Date of birth</i>	<i>Permanent address &amp; telephone number</i>	<i>Academic Or Professional qualification</i>	<i>Number of shares held in the company</i>

11. Particulars of other directorship(s) of the directors and secretary.

.....

12. Particulars of shares held by directors or secretary in other companies

.....

.....



13. Has the applicant or any of its directors, secretary or members of senior management at any time been placed under receivership, declared bankrupt, or compounded with or made an assignment for the benefit of his creditors, in Uganda or elsewhere? Yes/ No. If 'yes', give details  
.....  
.....
14. Has any director, secretary or senior management of the applicant been a director of a company that has been:
- (a) denied any licence or approval under the Collective Investment Schemes Act, 2003 or equivalent legislation in any other jurisdiction: Yes/No.  
If Yes, give details.  
.....  
.....
- (b) a director of a company providing banking, insurance, financial or investment advisory services whose licence has been revoked by the appropriate authority? Yes/No. If Yes, give details.  
.....  
.....
- (c) subjected to any form of disciplinary action by any professional body of which the applicant or any of its director was a member? Yes/ No. If yes, give details.  
.....  
.....
15. Has any court ever found that the applicant, or a person associated with the applicant was involved in a violation of the Collective Investment Schemes Act or these Regulations thereunder, or equivalent law outside Uganda? Yes / No. If 'yes', give details.  
.....  
.....
16. Is the applicant and/or a person associated with the applicant now the subject of any proceeding that could result in a 'yes' answer to the above question (15)? Yes/No. If 'yes', give details.  
.....  
.....

17. (1) Is the applicant, or any shareholder, director or the secretary of the applicant, a member or director of a member company of any securities exchange? Yes/ No.

If 'yes', give details.

.....  
.....

- (2) Have any of the above persons been—

- (a) refused membership of any securities organisation? Yes / No. If 'yes', give details

.....  
.....

- (b) expelled from or suspended from trading on or membership of any securities organisation? Yes/No. If 'yes' give details

.....  
.....

- (c) subjected to any other form of disciplinary action by any stock/securities exchange? Yes/No. If 'yes', give details.

.....  
.....

18. Business references:

<i>Name</i>	<i>Address</i>	<i>Telephone number (s)</i>	<i>Occupation</i>

19. One bank reference, where the applicant is a bank the reference shall be given by another bank independent of the applicant

20. Profile of the chief executive and key employees in the applicant company:

<i>Name</i>	<i>Posts</i>	<i>Qualifications</i>	<i>Experience</i>

21. List the office facilities of the applicant  
.....  
.....
22. State the exact nature of the activity to be carried on which obliges the applicant to apply for a licence from the Capital Markets Authority  
.....  
.....
23. Any other additional information considered relevant to this application:  
.....  
.....

We .....(Director), .....  
(Director) and ..... (Secretary) declare that all the information given in this application and in the attached documents is true and correct.

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

Signed:

.....) *Director*

.....) *Director*

..... ) *Secretary*

**Note:**

1. The following shall be submitted with the application for a licence:
  - (a) Memorandum and articles of association;
  - (b) certificate of incorporation;
  - (c) business plan complying with the requirements of regulation 125(1)(d) of the Collective Investment Schemes (Real Estate Investment Trusts) Regulations, 2016;
  - (d) a statement of the un-audited accounts for the period of accounting year ending not earlier than six months prior to the

date of application and audited annual accounts for the preceding two years (in the case of application of licence), management accounts up to the 30th November and audited annual accounts for the preceding year (in the case of renewal of licence);

- (e) a declaration by the directors as to whether after due enquiry by them in relation to the interval between the date to which the last accounts have been made and a date not earlier than fourteen days before the date of the application –
  - (i) the business of the company has, in their opinion, been satisfactorily maintained;
  - (ii) there have, in their opinion, arisen any circumstances adversely affecting the company's trading or value of its assets;
  - (iii) there are any contingent liabilities by reason of any guarantees given by the company or any of its subsidiaries;
  - (iv) there are, since the last annual accounts, any changes in published reserves or any unusual factors affecting the profit of the company or any of its subsidiaries;
- (f) a declaration by persons authorised as prescribed to accompany the application form;
- (g) an application fee.

**THE COLLECTIVE INVESTMENT SCHEMES (REAL ESTATE  
INVESTMENT TRUSTS) REGULATIONS, 2017**

**VALUATIONS**

**1. Industry standards**

- (1) Subject to the provisions of the Act, these Regulations and the requirements of this Schedule all valuations will be conducted in accordance with the International Standards and best practice applicable to valuation of property.
- (2) A valuation summary prepared in accordance with this schedule may be included in any Prospectus or Information Memorandum but full copy of the valuation report must be retained and made be available for inspection by any REIT securities holders, potential or past investors in REIT securities and the Authority. No claim of confidentiality can be made in respect of a valuation report issued to the trustee or promoter of a REIT.

**2. Valuer's details, signing, dating, certification and authentication**

- (1) The report should set out prominently-
  - (a) the name;
  - (b) address;
  - (c) qualifications;
  - (d) registration number; and
  - (e) where applicable her or his organization.
- (2) All valuation reports shall be signed by the valuer and dated and where the valuer is employed by a company, corporation or other body including a government organisation, department or authority shall also be signed by a director and the Chief Executive Officer of the company or corporation or the head of the organization, authority or department.

### **3. To whom the report must be addressed**

- (1) All valuation reports shall be addressed to the trustee and be expressed to be for the benefit of the trustee as trustee and all REIT securities holders in any real estate investment scheme or real estate investment trust in which the property is or becomes an asset.
- (2) Where a valuation was obtained prior to the appointment of the trustee or is in respect of property already vested in the REIT then the valuation shall be refreshed and reissued and addressed to the trustee. In refreshing and reissuing a valuation the valuer must expressly consider and address the currency of its prior opinion and of the data, information, capitalisation a discount rates utilised and other considerations and assumptions.

### **4. Opinion of value and disclaimers**

- (1) The valuer shall express an opinion in the report as to the value in words as well as figures.
- (2) Disclaimers, waivers and limitations on the valuer's opinion shall not be so wide as to deprive the trustee, or REIT securities holders or other parties relying on the valuation for the benefit of the valuation.

### **5. Basis of valuation**

The basis of the valuation is to be market value.

### **6. Compliance with the Act and these Regulations**

All reports and the conduct of valuations shall comply with the requirements of the Act and these Regulations, including the requirement for physical inspection.

### **7. Valuation approach and method of valuation**

- (1) Valuations shall be conducted using International Standards and best practice for the valuation of property. The valuation achieved under each valuation method shall be disclosed in the valuation report. The valuer shall determine and use the most appropriate valuation based on the type of property, availability of relevant data, accuracy of data, relevancy, and other factors considered by the valuer to be relevant.

- (2) The valuer shall include in its report a rationale for reconciling the values derived under the different methods and include a comparison by way of a table.
- (3) In the case of an I-REIT the assumption will be that, unless the valuer for the reasons set out in its report believes that the method is inappropriate in the circumstances, one method of valuation will be the income comparison method.
- (4) Valuations for assets other than real estate shall reflect the industry practice to valuation of such assets and may require the involvement of a specialist valuer.

## **8. Valuation approach and method of valuation**

- (1) The general approaches for the valuation of real estate currently include—
  - (a) comparison approach;
  - (b) cost approach; and
  - (c) income capitalisation approach.
- (2) The valuation report shall include an explanation of the valuation methods adopted and their appropriateness to the particular assets and the circumstances of the valuation.
- (3) In applying the methods of valuation the valuer shall ensure that the following are considered and disclosed in any valuation report:
  - (a) **Comparison Method**
    - (i) appropriate and adequate comparable;
    - (ii) details of the comparable including, identification and descriptions of the property, date of sale, tenure and details of title, land or lettable areas, purchase price, breakdown of land and building values, names of vendor and purchaser, terms and conditions of sale where available, current use, planning and zoning details and restrictions on use if any, details of any easements, tenancies;

- (iii) adjustments, if any, made by the valuer to ensure comparability so far as possible;

**(b) Cost Approach**

- (i) the actual construction or tender cost, if available;
- (ii) the cost and rates adopted for buildings structures and other improvements;
- (iii) adjustments made to reflect depreciation and obsolesce;
- (iv) adjustments, if any, made by the valuer to ensure comparability so far as possible;
- (v) depreciation rates adopted and their bases; and
- (vi) a caution should be included as to the appropriateness of use of the cost method in that costs may not reflect value;

**9. Income Capitalisation Approach**

**(a) Investment method**

- (i) gross income and sustainability of income used in the valuation where projected income is market derived.
- (ii) actual outgoings and other operating expenses where available for the past three years, projections should be supported and market derived.
- (iii) adequacy of maintenance and whether any major capital expenditure or increased maintenance is likely to be incurred in the next two years.
- (iv) in the case of tenanted properties, schedules of existing tenancies, including names of tenants, term of tenancy (including options), rentals, services charges and obligation to contribute to outgoings.
- (v) in the case of tenanted properties, any connection of the tenant with the vendor or owner should be disclosed together with a comment as to whether the rentals and terms of the tenancy reflect the market.



- (vi) in the case of tenanted properties, analysis of comparable data on rentals, incentives for tenants, outgoings, vacancies and capitalization rates and comparison with the property being valued.
- (vii) market evidence to support the capitalisation and discount rates utilized which reflect the risk of the business, sector and location and other factors.

**(b) Residual method**

- (i) the approved or submitted development plan together with details of approvals and consents obtained or applied for in relation to the development.
- (ii) consideration should be given to the reasonableness of the gross development value, timing of the development and construction period, in addition the valuer should liaise with the structural engineer and any project manager and if considered appropriate obtain additional expert input as to the cost of undertaking the development, and to obtain necessary and current market information.
- (iii) the complexity of the development and construction and terms of the building contracts and prior performance of the builder on similar contracts particularly as regards cost overruns, disputes and timing for completion should be taken into account together with the potential impact on cash flows.
- (iv) market information to support projected supply, including supply in the pipeline or approved developments, rates of absorption and projected rents or sales prices and potential impact on input costs.
- (v) past sales and performance of the REIT or the REIT manager or property manager in achieving sales for similar developments should be considered.
- (vi) the discount rate adopted must be market derived.

**(c) Profits method**

- (i) detailed workings showing an estimation of the annual revenue from the assets being acquired, operating expense, overheads and adjustments for depreciation and capital expense.
- (ii) consideration shall be given as to the adequacy of the level of maintenance, remaining useful life, obsolesce and provision for replacement of the assets.
- (iii) where the REIT is acquiring a business or entity rather than simply an asset then the valuer shall also take account of any potential liabilities that may be assumed by the REIT in acquiring the business or entity including unpaid taxation liabilities, pension and other potential employee liabilities. any potential liability shall be disclosed and highlighted in the report and if relevant the valuer should obtain expert input prior to completing the report.
- (iv) market evidence to support the capitalisation rates utilised which reflect the risk of the business, sector and location and other factors.

**(d) Discounted cash flow method**

- (i) detailed workings showing estimation of cash flows and the basis of estimation including comparison with market and supply and demand estimates.
- (ii) market evidence to support the capitalisation and discount rates utilised which reflect the risk of the business, sector and location and other factors.

**(e) Other methods**

- (i) an explanation of the method and rationale used
- (ii) all data used must be substantiated by reference to market evidence.

**10. Minimum contents of valuation report**

- (1) All valuation reports shall be clear and not misleading and shall disclose all material information and ensure that information disclosed is accurate and adequate. Where there is an inability to obtain accurate or adequate data then this fact shall be clearly disclosed and a caution included.

- (2) The report shall clearly set out the analytical process, data and information used to arrive at the valuation.
- (3) Where the valuation deviates from best practice then the reasons for this and the possible implications on the valuation shall be disclosed.

## **11. Contents of Report**

- (1) All valuation reports shall be addressed to the trustee and be expressed to be for the benefit of any and all REIT securities holders in any real estate investment scheme or real estate investment trust in which the property is or becomes an asset.
- (2) Details of the instructions provided to the valuer, including any special conditions whether in writing or oral, should be clearly disclosed.
- (3) The purpose of the valuation shall be stated.
- (4) The property shall be clearly identified by reference to title particulars including, lot number, title number and postal address.
- (5) The report shall be dated.
- (6) The basis of valuation and methods used, including a description of the method and comment on its appropriateness to the property and limitations or issues arising, where possible two methods shall be included.
- (7) The extent of and dates of inspection shall be included together with the name of the person who conducted the inspection.
- (8) The tenure or type of title together with the interest to be valued.
- (9) Any encumbrances, easements or other rights or claims or restrictions on use.
- (10) Zoning and approved uses and restrictions and building and planning consents and approvals copies of which shall be attached.
- (11) A detailed description of the property which should include—
  - (a) location and accessibility and include a plan;

- (b) age, description, condition and state of repair of buildings and other plant, equipment, fixtures and fittings or moveable property included in the valuation;
- (c) approvals of buildings, use and compliance as well as disclosure of any breaches of laws, regulations or conditions relating to the property or other assets;
- (d) details of any recent material upgrading, refurbishing or renovations;
- (e) details of the neighbourhood and surrounding developments, availability of communications, services and utilities;
- (f) details relevant to the sector and type of property, for example, for—
  - (i) offices details of lettable space, comment on facilities, services, access and access to transport, parking, air-conditioning, standard of fit out and comparative suitability for purpose and market position;
  - (ii) factories details of factory buildings including e.g. design, construction, height, span, access to services, plant and equipment, location relative to access roads, railways ports etc.; and suitability for a range of activities or whether designed for specialist use only;
  - (iii) residential accommodation, type and sector of market, number of rooms, standard of finish, access to and connection to services, access to transport and schools, any limits on rental that can be charged or requirements to provide access to particular group of tenants or other limits on use or ability to sell;
  - (iv) other types or classifications of properties (for example, hospitals, warehouses, logistics, shopping centres, special purpose buildings, extractive industries such as quarries) information relevant to their attractiveness for their intended purpose, state

of condition, comparison with norm for sector and location and competitiveness compliance for zoning and use and limits on changes and other factors that might influence value; or

- (v) problems or issues, for example, encroachments, site stability, swampy or hill side, squatters, height restrictions, set-backs, flooding, noise and other detrimental aspects.
- (g) details of prior registered dealings with the property for the past three years (or longer if the valuer considers relevant) including, date of dealing and if acquisition date of acquisition, cost of acquisition, expenditure subsequent to acquisition; parties involved in the transaction, use at the time of the transaction;
- (h) photographs of properties, including comparative properties and of the location may be included;
- (i) current market conditions and the possible impact of micro and macro-economic conditions and the impact of possible changes should be considered; or
- (j) the sources of information should be disclosed together with the opinions of experts.

## **12. Use of experts**

- (1) The valuer may with the agreement of the trustee and the REIT manager engage experts to provide specific input to assist it with the preparation of a valuation. The appointment of experts and all reports of experts shall state the purpose for which they were prepared, comply with the Act and Regulations.
- (2) Where the valuation is to be included in a Prospectus or Information Memorandum then the expert must be named as an expert in that document and appropriate consents obtained.
- (3) The reports of experts in addition to being addressed to the valuer must also be addressed to the trustee and be expressed to be for the benefit of any and all REIT securities holders in any real estate investment scheme or real estate investment trust in which the property is or becomes an asset.

### **13. Valuation summary**

- (1) A valuation summary which is a condensed form of the valuation report, prepared for the specific purpose, may be included in a Prospectus or Information document or any other document provided to REIT securities holders or any listing body.
- (2) The valuation summary shall clearly state that it is a summary only of the valuation report which is available for inspection at the offices of the trustee and include other designated addresses or on the internet address, if any.
- (3) The summary must be clear, signed and dated and contain adequate and accurate information and not be misleading to REIT securities holders or potential investors in RETI securities or to their advisers.

### **14. Significant or material changes**

- (1) Where a valuer has prepared a report or valuation summary and the valuer becomes aware of any significant or material changes affecting the valuation opinion, report or valuation summary at any time prior to:
  - (a) the issue of the Prospectus or Information Memorandum;
  - (b) the issue of REIT securities pursuant to the Prospectus or Information Memorandum; or
  - (c) REIT securities holders voting on any resolution for which the report was prepared.
- (2) The valuer must notify the trustee, the REIT manager and the Authority of the fact and the impact or potential impact on his report and opinion on value and shall withdraw his report and consent.

### **15. Appendices**

Maps, plans, detailed workings, expert's opinions, market studies, photographs and additional details may be included as Appendices.

## **SCHEDULE-5**

*Reg. 121*

### **MEETING OF HOLDERS OF REIT SECURITIES**

#### **1. General**

In addition to provisions for meetings of REIT security holders provided for in the scheme documents, the trustee and the REIT manager shall convene—

- (a) an annual meeting of REIT securities holders to be held at least fourteen days and not more than twenty-eight days after the date of circulation of the annual report;
- (b) whenever required by the Act, these Regulations or the scheme documents;
- (c) whenever the Trustee or the REIT manager determines that a meeting is desirable;
- (d) where directed to do so by the Authority where the Authority is of the opinion that the calling of a meeting is desirable; or
- (e) upon receiving a written request that a meeting be called for the purpose specified in the request by not less than fifty REIT securities holders who hold not less than ten percent of the voting REIT securities in the real estate investment trust.

#### **2. Notice of meetings**

- (1) At least a notice of fourteen days shall be given to the Authority, the auditor and each holder of REIT Securities of all meetings.
- (2) The notice of the meeting shall include:
  - (a) copies of any reports to be considered or which provide the foundation for any resolution and a copy of any resolution proposed to be put at the meeting;
  - (b) where the meeting is convened pursuant to a request of holders of REIT Securities or the Authority, then a copy of the request and the terms of any resolution proposed and of all reports or valuations that are required to be prepared or provided to holders;

- (c) where the meeting is convened as a consequence of a direction received from the Authority a copy of the direction and the terms of any resolution proposed, and
- (d) a statement that a REIT securities holder is entitled to attend the meeting in person or by executing the notice of appointment attached to the notice calling the meeting is entitled to appoint a proxy who need not be a REIT securities holder.

## **2. Chairperson and quorum**

- (1) Where the meeting is convened by the Trustee or the REIT Manager then the meeting shall be chaired by a representative of the Trustee.
- (2) Where the meeting is convened at the request of holders of REIT Securities or the direction of the Authority then the meeting shall be chaired by a person elected by holders of the REIT Securities present at the meeting if no such appointment is made then by the nominee of the Trustee.
- (3) The quorum of a meeting of holders of REIT Securities shall be five (5) REIT securities holders present in person or by proxy except in the case of a meeting to pass a special resolution in such case the quorum shall be a minimum of five REIT securities holders present in person or by proxy representing the holders of at least twenty-five percent of the REIT securities issued at the date of the calling of the meeting.
- (4) In the event that there is no quorum for any meeting, then the meeting shall be adjourned to a date determined by the Trustee which shall not be more than fourteen days from the date of the adjourned meeting. A notice of the adjourned meeting shall be given to all the holders of REIT Securities, the auditor and the Authority.
- (5) In the event that there is no quorum for any adjourned meeting, then the meeting may proceed notwithstanding the lack of a quorum.



- (6) The REIT Manager or the holdings of REIT securities by the REIT Manager or any party connected to them shall not be included for the purposes of determining whether a quorum is present irrespective of by whom the meeting was convened or the matter before the meeting.

#### **4. Resolutions**

Except where a special resolution is required by or permitted by the Act, these Regulations of the scheme documents, all resolutions may be passed by a simple majority and a copy of all resolutions passed at any meeting shall be filed with the Authority.

#### **5. Voting rights**

- (1) The rights of any REIT securities holder to vote at any meeting are subject to any provision of the Act or these Regulations which limit the capacity of the REIT securities holder to vote on any resolution or to any restrictions on voting by the promoter, REIT Manager, REIT property manager, auditor or valuer or any party connected to them in the Act, these Regulations or the scheme documents.
- (2) On any matter in respect of which a vote is to be taken, then any REIT securities holder present in person or by proxy shall be entitled to one vote on a show of hands.
- (3) A poll may be demanded on any vote or be required by the Chairperson of the meeting. In the case of a poll then—
  - (a) votes may be given either personally or by proxy; and
  - (b) every REIT securities holder shall have one vote for each vote held by the REIT securities holder.

#### **6. Adjournment and minutes**

- (1) The Chairperson may adjourn any meeting at which a quorum is present with the consent of the meeting and must adjourn if directed by the meeting.
- (2) The Trustee shall be responsible for ensuring that—
  - (a) minutes are prepared within seven days for all meetings of REIT securities holders and that the minutes record the

proceedings and all resolutions put to the meeting and the results of any votes and that the minutes are presented to the Chairperson for signing;

- (b) any minutes presented to the Chairperson shall be signed within seven days of presentation and recorded in the minute book and a signed copy provided to the REIT Manager provided that-
  - (i) if the Chairperson is not satisfied that the minutes prepared are correct and on request, these are not corrected by the Trustee, then the Chairperson shall be responsible for amending the draft minutes and signing a corrected copy which shall be recorded in the Minute book; and
  - (ii) a signed copy of the corrected minutes are forwarded to the Trustee, the REIT Manager and the Authority.

## SCHEDULE –6

*Reg. 130*

### FEES

#### PART - 1

ITEM	MATTER	FEE (UG. SHS)
<b>1</b>	<b>APPLICATION, AUTHORISATION OF SCHEME, APPROVAL OR PROSPECTUS OF INFORMATION MEMORANDUM, CONVERSION AND ANNUAL FEES</b>	
(a)	Non-refundable application fee or application renewal fee for authorisation of REIT scheme	750,000/=
(b)	Approval or licence fee	3,000,000/=
(c)	Annual licensing or renewal fee	3,000,000/=
(d)	Approval fee of Prospectus or Information memorandum	10,000,000/=
(e)	Re-submission of a Prospectus due to material Omissions or discrepancies	4,000,000/=
<b>2</b>	<b>TRUSTEE AND REIT MANAGER LICENCE AND RENEWAL FEES</b>	
(a)	A non-refundable licence application fee	750,000/=
(b)	Annual licence fee for a Trustee and REIT manager	3,000,000/=
(c)	Replacement of a licence	50,000/=
(d)	Certification of licence fee	50,000/=

GRACE JETHRO KAVUMA,  
*Chairperson, Capital Markets Authority.*

