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THE NAIROBI INTERNATIONAL FINANCIAL CENTRE ACT

(No. 25 of 2017)

THE NAIROBI INTERNATIONAL FINANCIAL CENTRE (GENERAL)
REGULATIONS, 2021

Regulation

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THE NAIROBI INTERNATIONAL FINANCIAL CENTRE ACT

(No. 25 of 2017)

THE NAIROBI INTERNATIONAL FINANCIAL CENTRE
(GENERAL) REGULATIONS, 2021

IN EXERCISE of the powers conferred by section 40 of the Nairobi International Financial Centre Act, the Cabinet Secretary, for the National Treasury and Planning, on the recommendation of the Authority, makes the following Regulations —

THE NAIROBI INTERNATIONAL FINANCIAL CENTRE
(GENERAL) REGULATIONS, 2021

PART I— PRELIMINARY

1. These Regulations may be cited as the Nairobi International Financial Centre (General) Regulations, 2021. Citation.

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

“Act” means the Nairobi International Financial Centre Act;

“Authority” has the meaning assigned to it under section 2 of the Act; No. 25 of 2017.

“applicant” means a person making an application to the Authority;

“application” means an application for —

- (a) certification to carry out a qualified activity;
- (b) variation of a certification;
- (c) withdrawal of a certification;
- (d) advisories or guidance;
- (e) a waiver; or
- (f) revocation or modification of a waiver;

“benefit” means a benefit, exemption, allowance or any other incentive available to a certified firm as may be prescribed under any law;

“Board” has the meaning assigned to it under section 8 of the Act;

“Cabinet Secretary” has the meaning assigned to it under section 2 of the Act;

“Centre” has the meaning assigned to it under section 2 of the Act;

“certification” means an approval granted by the Authority to an applicant to carry out a qualified activity;

“certified firm” means an entity that has been granted, and continues to hold a certification from the Authority;

“confidential information” means information of a confidential nature received by the Authority in the exercise of its functions other than information—

- (a) which, prior to such receipt, was in the public domain or which has come into the public domain other than as a result of a contravention of these Regulations or any other law; or
- (b) is a summary, collation, redaction or statistical representation of analysis of information from which it is not possible to ascertain that it relates to a certain person;

“controller” means a person who, either alone or with an associate—

- (a) holds more than ten percent or more of the shares in either a certified firm or a holding company of a certified firm;
- (b) is entitled to exercise or exercises ten percent or more of the voting rights in a certified firm or a holding company of a certified firm; or
- (c) is able to exercise significant influence over the management of a certified firm as a result of holding shares or being able to exercise the voting rights in a certified firm or a holding company of a certified firm or having a current exercisable right to acquire such shares or voting rights;

“decision notice” means a notice issued by the Authority under these Regulations;

“governing body” means the board of directors, partners, committee of management or other governing body or any other person or body of persons exercising equivalent powers and functions in relation to directing the operations of a business;

“group” means a group of entities which includes an entity (the first entity) and—

- (a) any parent of the first entity; and
- (b) any subsidiary of the first entity or of any parent of the first entity;

“investigator” means a person appointed to conduct an investigation under these Regulations;

“person” has the meaning assigned to it under section 2 of the Act;

“regulator” means a regulatory authority as defined in the Act or any other authority or body in Kenya that is officially recognized as such; and

“Tribunal” has the meaning assigned to it under section 2 of the Act;

3. (1) The Authority shall put in place procedures to identify and manage conflicts of interest to which its directors, officers, employees and agents may be subject in the performance of their duties.

Conflicts of interest.

(2) The procedures put in place under paragraph (1) shall ensure, amongst other things that such persons shall not make decisions on matters in respect of which they are subject to a material conflict of interest.

PART II—QUALIFIED ACTIVITIES

4. (1) An activity shall be a qualified activity if that activity— Qualified activities.

- (a) falls within one or more of the activities specified in the First Schedule to these Regulations; and
- (b) is carried out by way of business.

(2) A qualified activity may be conducted to the extent, and subject to any limitations or conditions as may be specified by the Authority.

PART III — CERTIFICATION

5. A body corporate or a registered partnership may apply to the Authority for a certification to carry on one or more qualified activities. Application for certification.

6. A person making an application for a certification, variation or withdrawal shall— Form and content of an application.

- (a) complete the forms specified by the Authority;
- (b) submit the completed forms accompanied by such documents specified in the forms or accompanying instructions;
- (c) provide such further information as the Authority may require; and
- (d) pay the required fees as prescribed in the Second Schedule.

7. (1) An applicant shall, if that person wants to be or remain certified, demonstrate to the satisfaction of the Authority at all times that— Conditions for certification.

- (a) they are fit and proper;
- (b) they have adequate resources, including financial resources;
- (c) they have adequate compliance arrangements, including policies and procedures in order to comply with the applicable requirements; and
- (d) their proposed business activities are in line with—
 - (i) Centre legislation; and
 - (ii) the strategic priorities of the Centre.

(2) The Authority may cancel or withdraw a certification if a certified firm ceases to meet the conditions under paragraph (1).

8. The Authority shall, in assessing whether a person is fit and proper for the purposes of regulation 7(1)(a), consider— Fit and proper.

- (a) the fitness and propriety of the members of its governing body;

- (b) the suitability of the controllers of that person;
- (c) the impact a controller might have on the person's ability to comply with the applicable requirements;
- (d) the applicant's connection with any person or membership of any group;
- (e) the qualified activities concerned;
- (f) the overall activities of the person and any associated risks that those activities pose to the objectives of the Centre and the Authority;
- (g) any matter which may harm or may have harmed the integrity or the reputation of the Centre or the Authority;
- (h) that person's standing with any relevant regulatory body, its disciplinary record, and risk posed to the Centre by the applicant's activities; and
- (i) any other relevant matters.

9. The Authority shall, in assessing whether a person has adequate resources for the purposes of regulation 7(1)(b), consider— Adequate resources.

- (a) the skills and experience of those who will manage the affairs;
- (b) the capacity to identify, monitor, measure and act to remove or reduce risks to its safety and soundness;
- (c) the effectiveness of the management of its business; and
- (d) whether the financial and non-financial resources are sufficient to enable the applicant to comply with the relevant legislation.

10. The Authority shall, in assessing whether a person has adequate compliance arrangements for the purposes of regulation 7(1)(c), consider whether that person— Compliance arrangements.

- (a) has clear and comprehensive policies and procedures relating to compliance with all the applicable requirements; and
- (b) has adequate means to implement those policies and procedures, and audit and monitor that they are operating effectively as intended.

11. (1) The Authority shall, in assessing a person's business plan and whether the plan is in line with the strategic priorities of the Centre, consider— Business plan and strategy.

- (a) the performance and track record of that person;
- (b) the strengths of the proposed business, including its alignment with the strategic priorities of the Centre;
- (c) the contribution of the business to the economy, including skills transfer;

- (d) the overall plan for the business in Kenya or regionally;
- (e) the level of innovation, specialisms or expertise of the business;
- (f) the environmental and social impact of the business; and
- (g) any other relevant matters.

(2) The Authority may, in assessing a business plan under paragraph (1), consult any person or organization with expert knowledge in the area of interest.

12. (1) The Authority may make an order providing that certain applicants or types of applicants or category of applicants may not be granted a certification or carry on particular qualified activities, together with the reasons for the order. Application requirements.

(2) The Authority may waive all or any part of its generally adopted requirements on form and content of an application either in an individual case or generally, provided that the Authority is satisfied in either case that—

- (a) materially similar, up-to-date information is provided in other documentation already issued or completed by the applicant;
- (b) such information is not necessary taking into account any license the applicant may have in a jurisdiction outside Kenya; or
- (c) such information is not considered by the Authority to be relevant in the context of any particular application.

(3) The Authority may require the applicant to provide further information which the Authority may reasonably require in considering an application.

(4) If at any time between the filing of an application and the grant of the certification, variation or withdrawal, the applicant becomes aware of any material change which is likely to be relevant to the application under consideration, the applicant shall inform the Authority of such a change without delay.

13. (1) A certified firm may apply to the Authority for a withdrawal or variation of the scope, conditions, restrictions or otherwise of the certification. Variation of certification.

(2) A variation under paragraph (1) may include—

- (a) expanding its certification to include an additional qualified activity;
- (b) varying any conditions, restrictions or requirements imposed on its certification; or
- (c) withdrawing its certification in respect of one or more qualified activities.

- (3) An applicant under this regulation shall—
- (a) complete the appropriate form as may be approved by the Authority;
 - (b) submit the completed form with such documents as may be required; and
 - (c) pay the required fees as prescribed in the Second Schedule.
- (4) An applicant may withdraw the application by giving notice to the Authority at any time before the Authority determines the application.
14. The Authority may issue an order— Exemptions from certain provisions.
- (a) exempting certain applicants or a category of applicants from certain provisions of these Regulations; and
 - (b) providing for any such exemptions to be—
 - (i) limited to certain qualified activities or specified circumstances; or
 - (ii) subject to certain conditions and restrictions.
15. (1) The Authority may— Grant or rejection of an application.
- (a) grant an application for certification either—
 - (i) without any conditions, restrictions or requirements; or
 - (ii) with such conditions, restrictions or requirements as it considers appropriate; or
 - (b) reject the application.
- (2) Where the Authority grants an application for certification under paragraph (1)(a), the Authority shall notify the applicant of—
- (a) the decision;
 - (b) the date on which the certification will be deemed to take effect;
 - (c) the qualified activities that the applicant is certified to carry on; and
 - (d) any conditions and restrictions applicable to the certification.
- (3) Where the Authority rejects an application for certification under paragraph (1)(b), the Authority shall inform the applicant, in writing, of—
- (a) the rejection and the reasons thereof; and
 - (b) the right of the applicant to appeal the decision to the Tribunal.
16. The Authority may exercise its powers and discretion under this Part having regard to such matters as it may consider appropriate, including— Powers and discretion of the Authority

- (a) the priorities, strategic goals and circumstances of the Centre;
- (b) the objectives, strategies, and priorities of the Authority; and
- (c) the proposed business and circumstances of the applicant and any implications or potential implications in respect of the objectives of the Centre.

17. (1) The Authority may, in assessing and in making a decision whether or not to grant a certification, rely in part or in whole on the assessment—

Reliance during assessment.

- (a) of a regulatory authority that is in receipt of, or has approved an application for a license from the applicant; or
- (b) by any person that has been appointed to review the suitability of the applicant by the Authority.

(2) In assessing an application for certification, the Authority may—

- (a) make any enquiries which the Authority considers appropriate;
- (b) require the applicant to provide additional information; and
- (c) take into account any information which the Authority may consider relevant.

18. (1) A certification granted under these Regulations is not transferrable other than by the Authority.

Certification not transferrable.

(2) Any benefits which a certified firm is entitled to shall cease when a firm ceases to be certified.

19. (1) The Authority may exercise any of the powers or take any of the steps set out in this Part at any time where the Authority considers it appropriate to do so in accordance with its objectives, including where it is satisfied that—

Action by the Authority.

- (a) a certified firm is failing, or is likely to fail to satisfy the applicable criteria;
- (b) a certified firm has failed, during a period of at least twelve months after certification, to carry on a qualified activity for which it has been certified;
- (c) it is desirable to take such steps to exercise such power in order to protect the interests of clients or customers of a certified firm or the financial system;
- (d) a certified firm is in breach of, or has been in breach of one or more conditions, restrictions or requirements applicable to it;
- (e) a certified firm is, or has been, otherwise in breach of the Act, these regulations, any other relevant Regulations, or any rules or guidelines; or

- (f) a certified firm has, during the course of making an application for certification or at any other time, provided information to the Authority, which is false, misleading, deceptive or failed to provide timely information.
- (2) The powers and steps under paragraph (1) shall be by a written notice to the certified firm—
- (a) imposing or varying such conditions, restrictions and requirements on a certification as the Authority may consider appropriate;
- (b) requiring a person specified in the condition, restriction or requirement to take or refrain from taking such action as the Authority may consider appropriate; or
- (c) withdrawing or varying the certification to remove one or more qualified activities.
- (3) The Authority may only exercise these actions—
- (a) after giving the certified firm an appropriate opportunity to make representations to the Authority in relation to the proposed steps; and
- (b) after giving due consideration to the representations in determining the steps to be taken.
- (4) The requirements of paragraph (3) may not apply—
- (a) where the Authority concludes that any delay likely to arise as a result of the requirement to allow representations is prejudicial to the interests of the clients or customers of the certified firm, or the financial system:

Provided that in such cases, the Authority shall provide the certified firm with an opportunity to make representations promptly after such powers have been exercised or steps taken and shall give due consideration to such representations; or

- (b) where the powers to be exercised or steps to be taken follow a determination by the Authority pursuant to procedures as set forth in its legislation or a decision by the Tribunal relating to or affecting the certified firm in question.
- (5) The Authority shall not approve an application for cancellation of certification unless the certified firm has stopped carrying out certified activities, paid any outstanding fees, provided any outstanding reports and has discharged its outstanding liabilities.

PART IV— REPORTING, SUPERVISION AND INVESTIGATIONS

20. (1) The Authority shall specify the information and reports ^{Reporting.} required to be provided to the Authority by certified firms.

(2) A certified firm shall submit the required reports containing the specified information to the Authority within the required period.

(3) Without prejudice to the requirements under paragraph (2), a certified firm shall, within the required period, submit to the Authority, an annual report containing details of the persons having control over the firm including the name and the level and type of control.

21. (1) The Authority may require a certified firm to produce—

Powers to obtain documents and information.

- (a) specified information; or
- (b) specified documents,

within such specified time and in such form and manner as the Authority may reasonably require in order to fulfil its functions under the Act.

(2) The Authority may request an appropriate overseas regulatory authority, body or agency to assist in exercising the powers in respect of any such person.

(3) The Authority may, in collaboration with any regulatory authority where applicable, enter the premises of a certified firm during working hours, for the purposes of inspection and making of copies of information or documents stored in any form on such premises.

(4) A person who is a subject of an inspection shall give the Authority all such assistance as the Authority may reasonably require.

22. (1) If it appears to the Authority that there may have been, may be or about to be a contravention of any law, regulation or rule administered by the Authority, the Authority may appoint an employee of the Authority, a regulator or a competent person to conduct an investigation and report to the Authority.

Appointment of investigators.

(2) The Authority shall give a written notice of the appointment of an investigator under paragraph (1) to the person subject to the investigation, unless the Authority believes that giving such notice is likely to impede the investigation.

(3) A notice under paragraph (2) shall specify the purpose of the investigation.

(4) A person under investigation shall be entitled to legal representation during the course of an investigation.

(5) The Authority or an investigator may require, by a written notice, any person to—

- (a) appear before the investigator at a specified time and place and to respond to questions;
- (b) produce at a specified time and place any specified document; or
- (c) provide such information or assistance as the investigator may require.

23. (1) A person shall not engage in any conduct that is intended to obstruct the Authority in the exercise of any of its powers under these Regulations.

Obstruction of the Authority.

(2) Without prejudice to the generality of paragraph (1), an obstruction may include—

- (a) destruction of documents;
- (b) failure to give or produce information or documents specified by the Authority;
- (c) failure to appear before the Authority at a specified time and place to respond to questions;
- (d) giving information that is false or misleading; or
- (e) failure to cooperate in relation to an investigation.

PART V— DISCIPLINARY POWERS

24. (1) If the Authority considers that a certified firm or person has contravened any law, regulation, rule or guideline administered by the Authority, the Authority may—

Sanctions for
contravention.

- (a) impose a fine not exceeding twenty thousand shillings in respect of the contravention;
- (b) censure the certified firm in respect of the contravention;
- (c) direct the certified firm to effect restitution or compensate any other person in respect of the contravention within such period and on such terms as the Authority may direct;
- (d) direct the certified firm to account for, in such form and on such terms as the Authority may direct, such amounts as the Authority determines to be profits or unjust enrichment arising from the contravention;
- (e) direct the certified firm to cease and desist from such activity constituting or connected to the contravention as the Authority may stipulate; or
- (f) direct the certified firm to do an act or thing to remedy the contravention or matters arising from the contravention.

(2) Nothing in this Part prevents the Authority from exercising any other power that the Authority may exercise under any other legislation.

25. A certified firm commits a contravention if the firm—

General
contravention.

- (a) fails to comply with any—
 - (i) prohibition or requirement imposed on the firm by the Authority;
 - (ii) undertaking given by the firm to the Authority; or
 - (iii) agreement made by the firm with the Authority;
- (b) engages in an activity that is prohibited under, or that contravenes any legislation administered by the Authority;
- (c) fails to comply with any requirement under any legislation administered by the Authority;

- (d) commits an act of fraud or abuses any fiduciary duty which the firm owes to its clients or other persons;
- (e) acts in a deceptive, misleading or dishonest manner; or
- (f) otherwise commits any contravention described as such in Regulations, guidelines or rules made by the Authority.

26. The Authority may, by a written notice, prohibit a certified firm from— Prohibitions and restrictions.

- (a) entering into certain specified transactions or types of transactions;
- (b) soliciting business from certain specified persons or types of persons;
- (c) carrying on business in a specified manner or other than in a specified manner;
- (d) using a particular name or description in respect of the certified firm;
- (e) dealing with any relevant property in a specified manner or other than in a specified manner; or
- (f) assisting, advising or procuring another person to deal with any relevant property in a specified manner or other than in a specified manner.

27. Where a person has engaged, is engaging or is proposing to engage in conduct that constituted, constitutes or would constitute a contravention, a court may, on the application of the Authority or any aggrieved person, make one or more of the following— Injunctions.

- (a) an order restraining the person from engaging in the conduct including engaging in conduct that may constitute a contravention;
- (b) an order requiring that person to do any act or thing including acts or things to remedy the contravention or to minimize loss or damage; or
- (c) any other order as the court may consider fit to make.

29 (1) Where—

Restitution orders.

- (a) the Authority is conducting or has conducted an investigation into the acts or omissions of a person which may constitute a contravention within the meaning of these Regulations; or
- (b) proceedings have been instituted by the Authority or otherwise, against a relevant person in relation to an alleged contravention,

a court may, on the application of the Authority or any aggrieved person, make a restitution order.

(2) For the purposes of these Regulations, a restitution order is one or more of the following—

- (a) an order restraining the relevant person from paying, transferring, disposing of or otherwise dealing with any assets of which they are reasonably likely to dispose of or otherwise deal with;
- (b) an order restraining any person holding assets on behalf of the relevant person from paying, transferring, disposing of, or otherwise dealing with, any assets of the relevant person which are reasonably likely to be disposed of or otherwise dealt with;
- (c) an order prohibiting the relevant person or any other person from taking or sending out of the Country any assets of the relevant person or held on their behalf; or
- (d) an order appointing a receiver or a receiver manager, having such powers as the court may see fit, of the property or any of the property of the relevant person.

30. If the Authority exercises any of its disciplinary powers under this Part, the person concerned may, within twenty eight days of receipt of a decision notice, refer the matter to the Tribunal. Appeals.

31. The Authority may intervene as a party in any proceedings before a court where the Authority considers such intervention appropriate to meet its objectives. Power to intervene in any proceedings.

32. (1) A procedure under these Regulations shall not be invalidated because of any procedural irregularity unless the Tribunal declares the procedure to be invalid. Procedural irregularities.

(2) For the purposes of this Regulation—

(a) procedure includes the making of a decision, conduct of a hearing, giving of a notice and any proceedings, legal or otherwise; and

(b) procedural irregularity includes a reference to a defect, irregularity or deficiency of notice or time.

PART VI—ENFORCEMENT PROCEDURE

33. (1) If the Authority proposes to exercise its disciplinary powers in relation to a person, the Authority shall issue a decision notice— Decision Notices.

- (a) specifying the action which the Authority proposes to take; and
- (b) giving that person an opportunity to make written representations to the Authority in relation to the action to be taken.

(2) The Authority may specify in any such notice the manner and time within which any such written representations shall be made.

(3) The requirement under paragraph (1) shall not apply where the Authority concludes that any delay likely to arise as a result of the requirement might be prejudicial to the interests of the clients or customers of the relevant person, the Centre or the financial system.

(4) The action proposed under paragraph (1)(a) may include one or more of the following—

- (a) cease and desist;
- (b) restitution;
- (c) penalty; or
- (d) withdrawal of certification.

34. (1) A decision notice given under regulation 33 shall—

Form and content of a decision notices.

- (a) be in writing; and
- (b) contain the Authority's reasons for the decision to take the action to which the notice relates.

(2) Where a decision notice relates to a financial penalty, the decision notice shall state the amount of the financial penalty and the period within which the amount shall be paid.

35. If a person who has received a decision notice does not refer the matter to the Tribunal within the time period specified in the notice, the Authority may take the action specified in the decision notice.

Implementation of a decision notice.

36. (1) Where the Authority, due to any circumstance warranting discontinuation of the decision, the Authority shall give a notice of discontinuance identifying the proceedings which are being discontinued to the person to whom the decision notice was given.

Discontinuation of proceedings.

(2) If a person to whom a decision notice is given appeals the matter to the Tribunal, that person may apply to the Tribunal to stay the action specified in the decision notice pending the outcome of the appeal.

37. (1) Subject to any other rights and obligations contained in the Act and these Regulations on the part of the Authority relating to the publication of information, any person to whom a decision notice is given or copied may not publish the decision notice.

Publication of a decision notice.

(2) Notwithstanding paragraph (1), the Authority may publish details of a decision notice in order to meet its objectives under the Act.

38. (1) If any of the reasons contained in a decision notice relate to a matter which—

Third party rights.

- (a) identifies a person (hereinafter referred to as the "third party") other than the person to whom the notice is given; and
- (b) in the opinion of the Authority, is prejudicial to the third party,

a copy of the notice shall be given to the third party.

(2) A notice under paragraph (1) shall specify a reasonable period within which the third party may make representations to the Authority.

(3) Notwithstanding paragraph (1), the Authority may not give a notice to a third party if the Authority considers it impractical to do so,

provided that the Authority shall demonstrate that it has made all reasonable efforts to give notice to the third party.

(4) A third party may refer to the Tribunal—

- (a) the decision in question or any aspect of the decision, so far as it relates to that person; or
- (b) any opinion expressed by the Authority in relation to that person.

(5) A copy of the decision notice shall be accompanied by an indication of the third party's right to make a reference to the Tribunal.

(6) If a third party refers the matter to the Tribunal, the third party may apply to the Tribunal to stay the action specified in the decision notice.

(7) Where the Authority discontinues an action which relates to a decision notice issued to a third party, the Authority shall give the third party a copy of any notice of discontinuance.

39. (1) If the Authority gives a person a decision notice, the Authority shall allow that person access to the material on which the Authority relied on in taking the decision which gave rise to the issuance of the notice.

Access to Authority material.

(2) Notwithstanding paragraph (1), the Authority may deny a person access to particular material if, in the opinion of the Authority, allowing access to the material would not be in the public interest or would not be fair to other parties to whom the material relates or prohibited by any other legislation.

(3) Where the Authority denies a person access to any material under paragraph (2), the Authority shall give that person a written notice of the refusal and the reasons thereof.

FIRST SCHEDULE - QUALIFIED ACTIVITIES (r. 4(1)(a))

Part 1 – Financial Service Activities

<i>Activity</i>	<i>Description</i>
Finance and banking business	Includes accepting deposits, banking business, financial business, Islamic banking, electronic and mobile banking
Investment banking business	Includes investment finance, project finance, corporate finance and wholesale finance, market making
Insurance business	Includes insurance and reinsurance business of any kind, as principal or as agent
Asset management and administration	Includes collective investment schemes, fund management, as principal, agent or advisory
Investment business	Includes advising, arranging, managing, dealing in investments as principal or agent or related activities
Payment business	Includes payment services
Pension business	Includes activities of retirement benefits schemes, administrations
Financial broking and agency business	Includes insurance broking, stock broking, credit broking, distribution of financial products, either as principal or agent or administration, classification services, investment grading and other grading
Consumer credit business	Includes credit finance, unsecured lending, consumer credit activities, credit information, credit references, debt counselling
Custody business	Includes acting as trustee, financial custodian, fiduciary business
Trading, money market and exchange business	Includes trading in precious metals, stocks, bonds, and other related or derived financial activities, setting up and operating an exchange

Part 2 – Ancillary Activities

<i>Activity</i>	<i>Description</i>
International legal services	Legal services on matters governed by laws other than Kenyan law
Accounting and actuarial services	Includes forensic and investigative services
Financial technology business	Includes mobile and technology business, blockchain, digital assets, cryptocurrency
Factoring and invoicing business	Includes invoice discounting
Climate business	Includes climate finance, carbon trading, carbon markets, green and blue instruments
Company administration	Includes formation, operation and administration of companies and related entities, nominee services, directorship services, secretarial services, registered office, treasury management
Company headquarter activities	Includes establishing or operating company headquarters, management offices, treasury operations and other functions

Holding company	Includes parent companies and cell companies
Operating a designated area	Operating a business and commercial area designated as such by the Authority
Corporate finance activities	Includes advisory business, management business
Crowdfunding activities	Includes online and digital fundraising
Incubation activities	Includes operating an incubation hub, sandbox environment
Investor company	Includes special purpose vehicles and special purpose acquisition companies
Joint venture company	Includes all forms of collaborative investment entities
Consulting company	Includes management consulting, research and advisory consulting activities

SECOND SCHEDULE – FEES

(rr. 6(d) & 13(3)(c))

The fee structure in this Schedule, or as may be amended from time to time, applies to applicants and certified firms

Categories

1. The categories of applicants and certified firms are set out in Table 1 below—

Table 1

Category	Details
A	A firm other than a start-up
B	A start-up firm that is in the initial stages of operations that will provide an innovative or novel service or product, as further specified by the Authority

Fees

2. The fees in Table 2 will apply to successful applicants for certification—

Table 2

<i>Category</i>	<i>Certification fee</i>
A	KSh. 1,000,000
B	KSh. 1,00,000

3. All applications for certification will be subject to a non-refundable processing fee of KES 25,000. For successful applicants this fee will be deducted from the certification fee.

4. The annual fees in Table 3 will apply to certified firms after the first year of certification

Table 3

<i>Category</i>	<i>Annual fee</i>
A	KSh. 500,000
B	KSh. 100,000

5. A firm will maintain its start-up status for a period of three years not including the first year of certification.

Immigration support services

6. The fees in Table 4 will be charged for immigration support services provided by the Authority

Table 4

<i>Category</i>	<i>Fee</i>
A	KSh. 150,000
B	KSh. 150,000

Waivers and modifications

7. The fees in Table 5 will be charged for reviewing and processing waiver and modification requests.

Table 5

<i>Category</i>	<i>Waivers and modifications fee</i>
A	KSh. 100,000
B	KSh. 5,000

Variations

8. The fees in Table 6 will be charged for reviewing and processing variation of certification requests.

Table 6

<i>Category</i>	<i>Variation fee</i>
A	KES 100,000
B	KES 10,000

Made on the 20th December, 2021.

UKUR YATANI KANACHO,
Cabinet Secretary for the National Treasury and Planning.