

## COMMODITY BROKERS CHECKLIST



### Compliance with Licensing Requirements

Section 29 of the Capital Markets Act, Part III of the Capital Markets (Commodity Markets) Regulations, 2019 and the Capital Markets (Corporate Governance) (Market Intermediaries) Regulations, 2011

	Requirement	Met Y/N	Comment
1.	Duly Completed and executed application form (Form B) as set out in the First Schedule of the Capital Markets (Commodity Markets) Regulations, 2020		
2.	Certified Copy of Certificate of Incorporation		
3.	Certified copies of memorandum and articles of association (with objects that allow the company to carry out the business for which the license is sought).		
4.	Evidence of minimum net capital and minimum net worth as determined by a commodity exchange and approved by the Authority.		
5.	Has the necessary infrastructure including office space, equipment and trained staff to effectively discharge its activities.		
6.	Have a chief executive officer who is a fit and proper person as described under section 24A of the Act and who has experience of not less than five years in the business of buying, selling or dealing in commodities, spot commodity contracts, derivatives contracts or other securities		
7.	Where an applicant is a market intermediary of another securities exchange or a derivatives exchange in addition to a commodity exchange, the applicant shall provide an undertaking that a		

	<p>prescribed percentage of the net capital balance shall be allocated to support its activities at the commodity exchange.</p> <p>The net capital required, shall –</p> <ul style="list-style-type: none"> <li>(a) not be less than the minimum required net capital balance at a commodity exchange;</li> <li>(b) be kept segregated; and</li> <li>(c) be maintained at all times.</li> </ul>		
8.	<p>Shareholding Structure, detailing the number of shares, the percentage holding and including the ultimate beneficial shareholding of all corporate shareholders and any existing Trusts if applicable.</p> <p>(Please note the shareholding structure requirements as stipulated under section 29(5) of the Capital Markets Act)</p>		
9.	<p>a) Board of Directors which should comprise of:</p> <ul style="list-style-type: none"> <li>i). A minimum of 3 directors a third of whom must be natural persons;</li> <li>ii). At least one third should be independent and non-executive directors; and</li> <li>iii). Not more than one third of the directors who are close relations of any director.</li> </ul> <p>b) A director should not hold more than 2 directorships in market intermediaries unless they are subsidiaries or holding companies.</p> <p>The Chairman of the Board must be a non- executive Director.</p>		
10.	<p>Company Secretary (Disclose the name of an individual and ICPSK Number).</p>		
11.	<p>Submission of a board charter that:</p> <ul style="list-style-type: none"> <li>a). confirms the Board’s responsibility for adoption of strategic plans, monitoring operational performance, the determination of policies and processes that ensure the intermediary’s risk management and internal controls;</li> <li>b). reserves specific powers to itself and delegates other matters to the management of a market intermediary;</li> <li>c). provides a code of conduct that addresses conflict of interest relating to directors and management which shall be regularly reviewed and updated as necessary;</li> </ul>		

	d). identifies the key risk areas that require regular monitoring; and provides for a clear separation of roles and responsibilities of the Chairman and Chief Executive.		
12.	Management Structure		
13.	<p>Details of staff (please note the requirement for the chief financial officer, risk management officer, compliance officer and internal audit functions as per the Corporate Governance Regulations).</p> <p>The internal auditor and chief financial officer must be members of ICPAK and the internal auditor must not be the compliance officer)</p>		
14.	Have a policy for appointment of employees		
15.	Have a policy on Anti-Money Laundering and Counter Terrorism Financing (in line with the Capital Markets Guidelines on the Prevention of Money Laundering and Terrorism Financing in the Capital Markets).		
16.	Comprehensive Curriculum Vitae for directors and key personnel*		
17.	Duly filled Fit & Proper forms of all the directors and key personnel & Comprehensive CV's for Directors and key personnel		
18.	Shareholders, directors and key personnel of the applicant have not defaulted in payment of dues at a clearing house of a commodity exchange.		
19.	Application fee (Kshs. 10,000)		